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LEGISLATIVE HISTORY

Public Law 9 -- 82nd Congress

Chapter 15--1st Session

H. R. 1724

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DIGEST OF PUBLIC LAW 9

CONTRACTS: Renegotiation Act of 1951. Provides for the renegotiation of certain defense contracts during the emergency period. Contracts for the purchase of an agricultural commodity in its raw or natural state, or in the first form or state in which it is customarily sold, are mandatorily exempt from the provisions of the Act.

CHAPTER IV

The first of the two main divisions of the subject is the history of the development of the various forms of the language. This is a subject of great interest and importance, and one which has attracted the attention of many of the most distinguished scholars of the world. The second division is the study of the various dialects of the language, and the differences between them. This is a subject of great interest and importance, and one which has attracted the attention of many of the most distinguished scholars of the world.

INDEX AND SUMMARY OF H. R. 1724

January 19, 1951 Mr. Doughton introduced H. R. 1724 which was referred to the House Committee on Ways and Means. Print of the bill as introduced.

Committee reported H. R. 1724 without amendments. House Report 7. Print of bill as reported.

January 22, 1951 Committee on Rules reported Resolution H. Res. 87 for the consideration of H. R. 1724. Print of Resolution as reported. House Report 11.

January 23, 1951 Debated and passed House with amendments

January 25, 1951 H. R. 1724 referred to Senate. Read twice and referred to the Committee on Finance. Print of bill as referred.

January 31, 1951 Hearings: Senate, on H. R. 1724.

February 12, 1951 Committee on Finance voted to report with amendments.

February 15, 1951 Senate reported H. R. 1724 with amendments. Senate Report 92. Print of bill as reported.

February 19, 1951 Senate began debate on H. R. 1724

February 21, 1951 Concluded debate and passed H. R. 1724 with amendments. Print of bill as passed in the Senate.

Senate conferees appointed.

February 22, 1951 House conferees appointed.

March 6, 1951 Conferees agreed to file report on H. R. 1724.

March 7, 1951 Both Houses received conference report. House Report 213.

March 12, 1951 Both Houses agreed to conference report.

March 23, 1951 Approved: Public Law 9.

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H. R. 1723

FOR THE PURPOSE OF

AMENDING AN ACT TO

A BILL

TO

AMEND AN ACT

TO

AMEND AN ACT

TO

TO

TO

82d CONGRESS
1st Session

H. R. 1724

IN THE HOUSE OF REPRESENTATIVES

JANUARY 19, 1951

Mr. DOUGHTON introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide for the renegotiation of contracts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Renegotiation Act of
4 1951".

5 TITLE I—RENEGOTIATION OF CONTRACTS

6 SEC. 101. DECLARATION OF POLICY.

7 It is hereby recognized and declared that the Congress
8 has made available for the execution of the national defense
9 program extensive funds, by appropriation and otherwise,
10 for the procurement of property, processes, and services, and
11 the construction of facilities necessary for the national de-

1 fense; that sound execution of the national defense program
2 requires the elimination of excessive profits from contracts
3 made with the United States, and from related subcontracts,
4 in the course of said program; and that the considered policy
5 of the Congress, in the interests of the national defense and
6 the general welfare of the Nation, requires that such excessive
7 profits be eliminated as provided in this title.

8 **SEC. 102. CONTRACTS SUBJECT TO RENEGOTIATION.**

9 (a) IN GENERAL.—The provisions of this title shall
10 be applicable (1) to all contracts with the Depart-
11 ments specifically named in section 103 (a), and
12 related subcontracts, to the extent of the amounts received
13 or accrued by a contractor or subcontractor on or after
14 the first day of January 1951, whether such contracts
15 or subcontracts were made on, before, or after such first
16 day, and (2) to all contracts with the Departments desig-
17 nated by the President under section 103 (a), and related
18 subcontracts, to the extent of the amounts received or accrued
19 by a contractor or subcontractor on or after the first day of
20 the first month beginning after the date of such designation,
21 whether such contracts or subcontracts were made on,
22 before, or after such first day; but the provisions of this
23 title shall not be applicable to receipts or accruals attribut-
24 able to performance, under contracts or subcontracts, after
25 December 31, 1953.

1 (b) RENEGOTIATION ACT OF 1948.—The Renegotia-
 2 tion Act of 1948 shall not apply with respect to any receipts
 3 or accruals subject to renegotiation under this title. If a
 4 contractor or subcontractor, during the same fiscal year
 5 in which he has receipts or accruals subject to renegotiation
 6 under this title, has other receipts or accruals from con-
 7 tracts or subcontracts subject to renegotiation under the
 8 Renegotiation Act of 1948, the provisions of this title
 9 shall, notwithstanding subsection (a), apply to such
 10 other receipts or accruals if the Board and such con-
 11 tractor or subcontractor agree to such application of
 12 this title; and in the case of such an agreement the provisions
 13 of the Renegotiation Act of 1948 shall not apply to such
 14 other receipts or accruals of the fiscal year.

15 (c) SUSPENSION OF CERTAIN PROFIT LIMITATIONS.—
 16 Notwithstanding any agreement to the contrary, the profit-
 17 limitation provisions of the Act of March 27, 1934 (48
 18 Stat. 503, 505), as amended and supplemented, shall not
 19 apply to any contract or subcontract if any of the receipts
 20 or accruals therefrom are subject to this title.

21 SEC. 103. DEFINITIONS.

22 For the purposes of this title—

23 (a) DEPARTMENT.—The term “Department” means
 24 the Department of Defense, the Department of the Army,
 25 the Department of the Navy, the Department of the Air

1 Force, the Department of Commerce, the General Services
2 Administration, the Atomic Energy Commission, and
3 such other agencies of the Government exercising functions
4 in connection with the national defense as the President shall
5 designate.

6 (b) SECRETARY.—The term “Secretary” means the
7 Secretary of Defense, the Secretary of the Army, the Secre-
8 tary of the Navy, the Secretary of the Air Force, the Sec-
9 retary of Commerce, the Administrator of General Services,
10 the Atomic Energy Commission, and the head of any other
11 agency of the Government which the President shall desig-
12 nate pursuant to subsection (a) of this section.

13 (c) BOARD.—The term “Board” means the Renegotia-
14 tion Board created by section 107 (a) of this Act.

15 (d) RENEGOTIATE AND RENEGOTIATION.—The terms
16 “renegotiate” and “renegotiation” include a determination
17 by agreement or order under this title of the amount of any
18 excessive profits.

19 (e) EXCESSIVE PROFITS.—The term “excessive profits”
20 means the portion of the profits derived from contracts with
21 the Departments and subcontracts which is determined in
22 accordance with this title to be excessive. In determining
23 excessive profits there shall be taken into consideration the
24 following factors:

25 (1) Efficiency of contractor, with particular regard

1 to attainment of quantity and quality production, reduc-
2 tion of costs, and economy in the use of materials, facili-
3 ties, and manpower;

4 (2) Reasonableness of costs and profits, with par-
5 ticular regard to volume of production, normal earnings,
6 and comparison of war and peacetime products;

7 (3) Reasonableness of return on net worth, with
8 particular regard to the amount and source of public
9 and private capital employed;

10 (4) Extent of risk assumed, including the risk inci-
11 dent to reasonable pricing policies;

12 (5) Nature and extent of contribution to the defense
13 effort, including inventive and developmental contribution
14 and cooperation with the Government and other contrac-
15 tors in supplying technical assistance;

16 (6) Character of business, including source and
17 nature of materials, complexity of manufacturing tech-
18 nique, character and extent of subcontracting, and rate
19 of turn-over;

20 (7) Such other factors the consideration of which
21 the public interest and fair and equitable dealing may
22 require, which factors shall be published in the regula-
23 tions of the Board from time to time as adopted.

24 (f) PROFITS DERIVED FROM CONTRACTS WITH THE
25 DEPARTMENTS AND SUBCONTRACTS.—The term “profits de-

1 rived from contracts with the Departments and subcon-
2 tracts" means the excess of the amount received or accrued
3 under such contracts and subcontracts over the costs paid
4 or incurred with respect thereto and determined to be
5 allocable thereto. All items estimated to be allowable as
6 deductions and exclusions under chapter 1 of the Internal
7 Revenue Code (excluding taxes measured by income) shall,
8 to the extent allocable to such contracts and subcontracts,
9 be allowed as items of cost, except that no amount shall be
10 allowed as an item of cost by reason of the application
11 of a carry-over or carry-back. Such costs shall be deter-
12 mined in accordance with the method of cost accounting
13 regularly employed by the contractor or subcontractor in
14 keeping his books, but, if no such method of cost accounting
15 has been employed, or if the method so employed does not,
16 in the opinion of the Board, or, upon redetermination, in
17 the opinion of The Tax Court of the United States, properly
18 reflect such costs, such costs shall be determined in accord-
19 ance with such method as in the opinion of the Board, or,
20 upon redetermination, in the opinion of The Tax Court of
21 the United States, does properly reflect such costs. Irre-
22 spective of the method employed or prescribed for determin-
23 ing such costs, no item of cost shall be charged to contracts
24 with the Departments or subcontracts or used in any manner

1 for the purpose of determining such costs, to the extent that,
2 in the opinion of the Board, or, upon redetermination, in
3 the opinion of The Tax Court of the United States, such
4 item is unreasonable or not properly chargeable to such con-
5 tracts or subcontracts. In determining the amount of exces-
6 sive profits to be eliminated, proper adjustment shall be
7 made on account of the taxes measured by income, other
8 than Federal taxes, which are attributable to the portion of
9 the profits which are not excessive.

10 (g) SUBCONTRACT.—The term “subcontract” means—

11 (1) any purchase order or agreement (including
12 purchase orders or agreements antedating the related
13 prime contract or higher tier subcontract) to perform
14 all or any part of the work, or to make or furnish any
15 materials, required for the performance of any other
16 contract or subcontract;

17 (2) any contract or arrangement covering the right
18 to use any patented or secret method, formula, or device
19 for the performance of a contract or subcontract; and

20 (3) any contract or arrangement (other than a con-
21 tract or arrangement between two contracting parties,
22 one of whom is found by the Board to be a bona fide
23 executive officer, partner, or full-time employee of the
24 other contracting party) under which—

1 (A) any amount payable is contingent upon
2 the procurement of a contract or contracts with a
3 Department or of a subcontract or subcontracts; or

4 (B) any amount payable is determined with
5 reference to the amount of a contract or contracts
6 with a Department or of a subcontract or subcon-
7 tracts; or

8 (C) any part of the services performed or to
9 be performed consists of the soliciting, attempting to
10 procure, or procuring a contract or contracts with a
11 Department or a subcontract or subcontracts.

12 Nothing in this subsection shall be construed (i) to affect in
13 any way the validity or construction of provisions in any
14 contract with a Department or any subcontract, heretofore
15 at any time or hereafter made, prohibiting the payment of
16 contingent fees or commissions; or (ii) to restrict in any
17 way the authority of the Board to determine the nature or
18 amount of selling expense under subcontracts as defined in
19 this subsection, as a proper element of the contract price
20 or as a reimbursable item of cost, under a contract with a
21 Department or a subcontract.

22 (h) FISCAL YEAR.—The term “fiscal year” means,
23 except in the case of a partnership as defined in section
24 3797 (a) (2) of the Internal Revenue Code, the taxable

1 year of the contractor or subcontractor under chapter 1 of
 2 such code. In the case of a partnership as so defined the
 3 term "fiscal year" means such period as the Board by regu-
 4 lations may prescribe.

5 (i) RECEIVED OR ACCRUED AND PAID OR INCURRED.—

6 The terms "received or accrued" and "paid or incurred"
 7 shall be construed according to the method of accounting
 8 employed by the contractor or subcontractor in keeping his
 9 books, but if no such method of accounting has been em-
 10 ployed, or if the method so employed does not, in the
 11 opinion of the Board, or, upon redetermination, in the
 12 opinion of The Tax Court of the United States, properly
 13 reflect his receipts or accruals or payments or obligations,
 14 such receipts or accruals or such payments or obligations
 15 shall be determined in accordance with such method as in
 16 the opinion of the Board, or, upon redetermination, in the
 17 opinion of The Tax Court of the United States, does properly
 18 reflect such receipts or accruals or such payments or
 19 obligations.

20 (j) PERSON.—The term "person" shall include an indi-
 21 vidual, firm, corporation, association, partnership, and any
 22 organized group of persons whether or not incorporated.

23 (k) MATERIALS.—The term "materials" shall include

1 raw materials, articles, commodities, parts, assemblies, prod-
2 ucts, machinery, equipment, supplies, components, technical
3 data, processes, and other personal property.

4 (1) AGENCY OF THE GOVERNMENT.—The term “agency
5 of the Government” means any part of the executive branch
6 of the Government or any independent establishment of
7 the Government or part thereof, including any department
8 (whether or not a Department as defined in subsection (a)
9 of this section), any corporation wholly or partly owned by
10 the United States which is an instrumentality of the United
11 States, or any board, bureau, division, service, office, officer,
12 employee, authority, administration, or other establishment
13 of the Government which is not a part of the legislative or
14 judicial branches.

15 **SEC. 104. RENEGOTIATION CLAUSE IN CONTRACTS.**

16 Subject to section 106 (a), the Secretary of each
17 Department specifically named in section 103 (a) shall
18 insert in each contract made by such Department thirty
19 days or more after the date of the enactment of this Act,
20 and the Secretary of each Department designated by the
21 President under section 103 (a) shall insert in each contract
22 made by such Department thirty days or more after the date
23 of such designation, a provision under which the contractor
24 agrees—

1 (1) to the elimination of excessive profits through
2 renegotiation;

3 (2) that there may be withheld by the United
4 States from amounts otherwise due the contractor, or
5 that he will repay to the United States, if paid to him,
6 any excessive profits;

7 (3) that he will insert in each subcontract described
8 in section 103 (g) a provision under which the subcon-
9 tractor agrees—

10 (A) to the elimination of excessive profits
11 through renegotiation;

12 (B) that there may be withheld by the con-
13 tractor for the United States from amounts other-
14 wise due to the subcontractor, or that the subcon-
15 tractor will repay to the United States, if paid to
16 him, any excessive profits;

17 (C) that the contractor shall be relieved of all
18 liability to the subcontractor on account of any
19 amount so withheld, or so repaid by the subcon-
20 tractor to the United States;

21 (D) that he will insert in each subcontract
22 described in section 103 (g) provisions correspond-
23 ing to those of subparagraphs (A), (B), and (C);
24 and to those of this subparagraph;

1 (4) that there may be withheld by the United
2 States from amounts otherwise due the contractor, or
3 that he will repay to the United States, as the Secretary
4 may direct, any amounts which under section 105 (b)
5 (1) (C) the contractor is directed to withhold from a
6 subcontractor and which are actually unpaid at the time
7 the contractor receives such direction.

8 The obligations assumed by the contractor or subcontractor
9 under paragraph (1) or (3) (A), as the case may be,
10 agreeing to the elimination of excessive profits through re-
11 negotiation shall be binding on him only if the contract or
12 subcontract, as the case may be, is subject to this title. A
13 provision inserted in a contract or subcontract, which recites
14 in substance that the contract or subcontract shall be deemed
15 to contain all the provisions required by this section shall be
16 sufficient compliance with this section. Whether or not the
17 provisions specified in this section are inserted in a contract
18 with a Department or subcontract, to which this title is
19 applicable, such contract or subcontract, as the case may be,
20 shall be considered as having been made subject to this title
21 in the same manner and to the same extent as if such pro-
22 visions had been inserted.

23 **SEC. 105. RENEGOTIATION PROCEEDINGS.**

24 (a) **PROCEEDINGS BEFORE THE BOARD.**—Renegotiation
25 proceedings shall be commenced by the mailing of notice to

1 that effect, in such form as may be prescribed by regulation,
2 by registered mail to the contractor or subcontractor. The
3 Board shall endeavor to make an agreement with the con-
4 tractor or subcontractor with respect to the elimination of
5 excessive profits received or accrued, and with respect to
6 such other matters relating thereto as the Board deems ad-
7 visable. Any such agreement, if made, may, with the con-
8 sent of the contractor or subcontractor, also include provi-
9 sions with respect to the elimination of excessive profits
10 likely to be received or accrued. If the Board does not make
11 an agreement with respect to the elimination of excessive
12 profits received or accrued, it shall issue and enter an order
13 determining the amount, if any, of such excessive profits,
14 and forthwith give notice thereof by registered mail to the
15 contractor or subcontractor. In the absence of the filing of
16 a petition with The Tax Court of the United States under
17 the provisions of and within the time limit prescribed in
18 section 108, such order shall be final and conclusive and shall
19 not be subject to review or redetermination by any court or
20 other agency. The Board shall exercise its powers with
21 respect to the aggregate of the amounts received or accrued
22 during the fiscal year (or such other period as may be fixed
23 by mutual agreement) by a contractor or subcontractor
24 under contracts with the Departments and subcontracts, and
25 not separately with respect to amounts received or accrued

1 under separate contracts with the Departments or subcon-
2 tracts, except that the Board may exercise such powers
3 separately with respect to amounts received or accrued by
4 the contractor or subcontractor under any one or more sepa-
5 rate contracts with the Departments or subcontracts at the
6 request of the contractor or subcontractor. By agreement
7 with any contractor or subcontractor, and pursuant to regu-
8 lations promulgated by it, the Board may in its discretion
9 conduct renegotiation on a consolidated basis in order prop-
10 erly to reflect excessive profits of two or more related con-
11 tractors or subcontractors. Whenever the Board makes a
12 determination with respect to the amount of excessive profits,
13 and such determination is made by order, it shall, at the
14 request of the contractor or subcontractor, as the case may
15 be, prepare and furnish such contractor or subcontractor with
16 a statement of such determination, of the facts used as a
17 basis therefor, and of its reasons for such determination.
18 Such statement shall not be used in The Tax Court of the
19 United States as proof of the facts or conclusions stated
20 therein.

21 (b) METHODS OF ELIMINATING EXCESSIVE PROFITS.—

22 (1) IN GENERAL.—Upon the making of an agree-
23 ment, or the entry of an order, under subsection (a) of
24 this section by the Board, or the entry of an order
25 under section 108 by The Tax Court of the United

1 States, determining excessive profits, the Board shall
2 forthwith authorize and direct the Secretaries or any of
3 them to eliminate such excessive profits—

4 (A) by reductions in the amounts otherwise
5 payable to the contractor under contracts with the
6 Departments, or by other revision of their terms;

7 (B) by withholding from amounts otherwise
8 due to the contractor any amount of such excessive
9 profits;

10 (C) by directing any person having a contract
11 with any agency of the Government, or any sub-
12 contractor thereunder, to withhold for the account
13 of the United States from any amounts otherwise due
14 from such person or such subcontractor to a con-
15 tractor, or subcontractor, having excessive profits to
16 be eliminated, and every such person or sub-
17 contractor receiving such direction shall withhold
18 and pay over to the United States the amounts
19 so required to be withheld;

20 (D) by recovery from the contractor or sub-
21 contractor, or from any person or subcontractor
22 directed under subparagraph (C) to withhold for
23 the account of the United States, through payment,
24 repayment, credit, or suit any amount of such
25 excessive profits realized by the contractor or sub-

1 contractor or directed under subparagraph (C) to
2 be withheld for the account of the United States; or
3 (E) by any combination of these methods, as
4 is deemed desirable.

5 (2) INTEREST.—Interest at the rate of 6 per
6 centum per annum shall accrue and be paid on the
7 amount of such excessive profits from the date fixed for
8 repayment by the order of the Board or by the agree-
9 ment with the contractor or subcontractor to the date of
10 repayment, and on amounts required to be withheld by
11 any person or subcontractor for the account of the
12 United States pursuant to paragraph (1) (C), from
13 the date payment is demanded by the Secretaries or
14 any of them to the date of payment. When The Tax
15 Court of the United States, under section 108, redeter-
16 mines the amount of excessive profits received or accrued
17 by a contractor or subcontractor, interest at the rate of
18 6 per centum per annum shall accrue and be paid by
19 such contractor or subcontractor as follows:

20 (A) When the amount of excessive profits
21 determined by the Tax Court is greater than the
22 amount determined by the Board, interest shall
23 accrue and be paid on the amount determined by the
24 Board from the date originally fixed by the Board for
25 its repayment to the date of repayment and, in

addition thereto, interest shall accrue and be paid on the additional amount determined by the Tax Court from the date of its order determining such excessive profits to the date of repayment.

(B) When the amount of excessive profits determined by the Tax Court is equal to the amount determined by the Board, interest shall accrue and be paid on such amount from the date originally fixed by the Board for its repayment to the date of repayment.

(C) When the amount of excessive profits determined by the Tax Court is less than the amount determined by the Board, interest shall accrue and be paid on such lesser amount from the date originally fixed for repayment by the Board to the date of repayment.

(3) SUITS FOR RECOVERY.—Actions on behalf of the United States may be brought in the appropriate courts of the United States to recover, (A) from the contractor or subcontractor, any amount of such excessive profits and accrued interest not withheld or eliminated by some other method under this subsection, and (B) from any person or subcontractor who has been directed under paragraph (1), (C) of this subsection

1 to withhold for the account of the United States, the
2 amounts required to be withheld under such paragraph,
3 together with accrued interest thereon.

4 (4) SURETIES.—The surety under a contract or
5 subcontract shall not be liable for the repayment of any
6 excessive profits thereon.

7 (5) INDEMNIFICATION.—Each person is hereby
8 indemnified by the United States against all claims on
9 account of amounts withheld by such person pursuant
10 to this subsection from a contractor or subcontractor and
11 paid over to the United States.

12 (6) TREATMENT OF RECOVERIES.—All money re-
13 covered in respect to amounts paid to a contractor from
14 appropriations from the Treasury by way of repayment
15 or suit under this subsection shall be covered into the
16 Treasury as miscellaneous receipts. Upon the withhold-
17 ing of any amount of excessive profits or the crediting of
18 any amount of excessive profits against amounts other-
19 wise due a contractor, the Secretary shall certify the
20 amount thereof to the Treasury and the appropriations
21 of his Department shall be reduced by an amount equal
22 to the amount so withheld or credited. The amount of
23 such reductions shall be transferred to the surplus fund
24 of the Treasury. All money recovered in respect of
25 amounts paid to the contractor from corporate or other

1 revolving funds (other than appropriations from the
2 Treasury) by way of repayment, withholding, crediting,
3 or suit under this section shall be restored to such funds.

4 The Board is authorized to make regulations giving effect
5 to the intent of this provision in respect of money recov-
6 ered representing subcontract excessive profits not readily
7 identifiable as to the public funds ultimately reflecting
8 charges therefor.

9 (7) CREDIT FOR TAXES PAID.—In eliminating ex-
10 cessive profits, the Secretary shall allow the contractor
11 or subcontractor credit for Federal income and excess
12 profits taxes as provided in section 3806 of the Internal
13 Revenue Code.

14 (c) PERIODS OF LIMITATIONS.—No proceeding to de-
15 termine the amount of excessive profits for any fiscal year
16 shall be commenced more than one year after the state-
17 ment required under subsection (e) (1) of this section is
18 filed with the Board with respect to such year, and, if such
19 proceeding is not commenced prior to the expiration of
20 one year following the date upon which such statement is so
21 filed, all liabilities of the contractor or subcontractor for
22 excessive profits received or accrued during such fiscal year
23 shall thereupon be discharged. If an agreement or order
24 determining the amount of excessive profits is not made
25 within two years following the commencement of the re-

1 negotiation proceeding, then upon the expiration of such
2 two years all liabilities of the contractor or subcontractor
3 for excessive profits with respect to which such proceeding
4 was commenced shall thereupon be discharged, except that
5 (1) if an order is made within such two years pursuant
6 to a delegation of authority under subsection (d) of section
7 107, such two-year limitation shall not apply to review of
8 such order by the Board, and (2) such two-year period
9 may be extended by mutual agreement.

10 (d) AGREEMENTS TO ELIMINATE EXCESSIVE PROF-
11 ITS.—For the purposes of this title the Board may make final
12 or other agreements with a contractor or subcontractor for
13 the elimination of excessive profits and for the discharge of
14 any liability for excessive profits under this title. Such agree-
15 ments may contain such terms and conditions as the Board
16 deems advisable. Any such agreement shall be conclusive
17 according to its terms; and, except upon a showing of fraud
18 or malfeasance or a willful misrepresentation of a material
19 fact, (1) such agreement shall not for the purposes of this
20 title be reopened as to the matters agreed upon, and shall not
21 be modified by any officer, employee, or agent of the United
22 States, and (2) such agreement and any determination made
23 in accordance therewith shall not be annulled, modified, set
24 aside, or disregarded in any suit, action, or proceeding. Not-
25 withstanding any other provision of this title, however, the

1 Board shall have the power, pursuant to regulations promul-
2 gated by it, to modify any agreement or order for the purpose
3 of extending the time for payment of sums due under such
4 agreement or order.

5 (e) INFORMATION AVAILABLE TO BOARD.—

6 (1) FURNISHING OF FINANCIAL STATEMENTS,
7 ETC.—Every person who holds contracts or subcontracts,
8 to which the provisions of this title are applicable, shall,
9 in such form and detail as the Board may by regulations
10 prescribe, file with the Board, on or before the first day
11 of the fourth calendar month following the close of his
12 fiscal year, a financial statement setting forth such
13 information as the Board may by regulations prescribe
14 as necessary to carry out this title. In addition to the
15 statement required under the preceding sentence, every
16 such person shall, at such time or times and in such form
17 and detail as the Board may by regulations prescribe,
18 furnish the Board any information, records, or data which
19 are determined by the Board to be necessary to carry out
20 this title. Any person who willfully fails or refuses to
21 furnish any statement, information, records, or data re-
22 quired of him under this subsection, or who knowingly
23 furnishes any such statement, information, records, or
24 data containing information which is false or misleading

1 in any material respect, shall, upon conviction thereof, be
2 punished by a fine of not more than \$10,000 or impris-
3 onment for not more than one year, or both.

4 (2) AUDIT OF BOOKS AND RECORDS.—For the pur-
5 pose of this title, the Board shall have the right to audit
6 the books and records of any contractor or subcontractor
7 subject to this title. In the interest of economy and
8 the avoidance of duplication of inspection and audit, the
9 services of the Bureau of Internal Revenue shall, upon
10 request of the Board and the approval of the Secretary
11 of the Treasury, be made available to the extent deter-
12 mined by the Secretary of the Treasury for the purpose
13 of making examinations and audits under this title.

14 (f) MINIMUM AMOUNTS SUBJECT TO RENEGOTIA-
15 TION.—

16 (1) IN GENERAL.—If the aggregate of the amounts
17 received or accrued during a fiscal year (and on or after
18 the applicable effective date specified in section 102
19 (a)) by a contractor or subcontractor, and all persons
20 under control of or controlling or under common con-
21 trol with the contractor or subcontractor, under contracts
22 with the Departments and subcontracts described in
23 section 103 (g) (1) and (2), is not more than
24 \$100,000, the receipts or accruals from such contracts
25 and subcontracts shall not, for such fiscal year, be re-

1 negotiated under this title. If the aggregate of such
2 amounts received or accrued during the fiscal year under
3 such contracts and subcontracts is more than \$100,000,
4 no determination of excessive profits to be eliminated
5 for such year with respect to such contracts and subcon-
6 tracts shall be in an amount greater than the amount
7 by which such aggregate exceeds \$100,000.

8 (2) SUBCONTRACTS DESCRIBED IN SECTION 103

9 (G) (3).---If the aggregate of the amounts received or
10 accrued during a fiscal year (and on or after the ap-
11 plicable effective date specified in section 102 (a)) by
12 a subcontractor, and all persons under control of or con-
13 trolling or under common control with the subcontractor,
14 under subcontracts described in section 103 (g) (3)
15 is not more than \$25,000, the receipts or accruals from
16 such subcontracts shall not, for such fiscal year, be
17 renegotiated under this title. If the aggregate of such
18 amounts received or accrued during the fiscal year under
19 such subcontracts is more than \$25,000, no determina-
20 tion of excessive profits to be eliminated for such year
21 with respect to such subcontracts shall be in an amount
22 greater than the amount by which such aggregate exceeds
23 \$25,000.

24 (3) COMPUTATION.—In computing the aggregate

1 of the amounts received or accrued during any fiscal year
2 for the purposes of paragraphs (1) and (2) of this
3 subsection, such computation shall be made without
4 elimination of intercompany sales. If the fiscal year is
5 a fractional part of twelve months, the \$100,000 amount
6 and the \$25,000 amount shall be reduced to the same
7 fractional part thereof for the purposes of paragraphs
8 (1) and (2).

9 **SEC. 106. EXEMPTIONS.**

10 (a) **MANDATORY EXEMPTIONS.**—The provisions of this
11 title shall not apply to—

12 (1) any contract by a Department with any Terri-
13 tory, possession, or State, or any agency or political sub-
14 division thereof, or with any foreign government or any
15 agency thereof; or

16 (2) any contract or subcontract for an agricultural
17 commodity in its raw or natural state, or if the com-
18 modity is not customarily sold or has not an established
19 market in its raw or natural state, in the first form or
20 state, beyond the raw or natural state, in which it is
21 customarily sold or in which it has an established mar-
22 ket, but only if such contract or subcontract is with the
23 producer of such agricultural commodity. The term
24 “agricultural commodity” as used herein shall include
25 but shall not be limited to—

1 (A) commodities resulting from the cultivation
2 of the soil such as grains of all kinds, fruits, nuts,
3 vegetables, hay, straw, cotton, tobacco, sugarcane,
4 and sugar beets;

5 (B) natural resins, saps, and gums of trees;

6 (C) animals, such as cattle, hogs, poultry, and
7 sheep, fish and other marine life, and the produce
8 of live animals, such as wool, eggs, milk and
9 cream; or

10 (3) any contract or subcontract for the product
11 of a mine, oil or gas well, or other mineral or natural
12 deposit, which has not been processed, refined, or treated
13 beyond the ordinary treatment processes normally ap-
14 plied by producers in order to obtain the first commer-
15 cially marketable product, but only if such contract or
16 subcontract is with the owner or operator of the mine,
17 well, or deposit from which such product is produced.
18 The term "ordinary treatment processes" means, in the
19 case of the product of a mine, well, or deposit with
20 respect to which an allowance for percentage depletion
21 is provided by section 114 (b) (3) or (4) of the
22 Internal Revenue Code, those processes which are taken
23 into account under such section in computing gross in-
24 come from the property, and in the case of any other
25 product such term means such similar processes as may

1 be prescribed under regulations promulgated by the
2 Board; or

3 (4) any contract or subcontract for timber which
4 has not been processed beyond the form of logs, but only
5 if such contract or subcontract is with the owner of the
6 timber property or with the producer of the logs; or

7 (5) any subcontract directly or indirectly under
8 a contract or subcontract to which this title does not
9 apply by reason of this subsection.

10 (b) COST ALLOWANCE.—In the case of a contractor
11 or subcontractor who produces an agricultural product and
12 processes, refines, or treats such a product beyond the first
13 form or state provided in paragraph (2) of subsection (a),
14 or who produces the product of a mine, oil or gas well,
15 or other mineral or natural deposit, or timber, and
16 processes, refines, or treats such a product beyond the first
17 commercially marketable state provided in paragraph
18 (3) of subsection (a) or, in the case of timber,
19 beyond the form of logs, the Board shall prescribe such
20 regulations as may be necessary to give the contractor
21 or subcontractor a cost allowance substantially equiva-
22 lent to the amount which would have been realized by such
23 contractor or subcontractor if he had sold the product in the
24 form or state provided in paragraph (2) or (3) of subsec-
25 tion (a), or, in the case of timber, in the form of logs.

1 (c) PERMISSIVE EXEMPTIONS.—The Board is au-
2 thorized, in its discretion, to exempt from some or all of the
3 provisions of this title—

4 (1) any contract or subcontract to be performed
5 outside of the territorial limits of the continental United
6 States or in Alaska;

7 (2) any contracts or subcontracts under which,
8 in the opinion of the Board, the profits can be deter-
9 mined with reasonable certainty when the contract
10 price is established, such as certain classes of (A) agree-
11 ments for personal services or for the purchase of real
12 property, perishable goods, or commodities the mini-
13 mum price for the sale of which has been fixed by a
14 public regulatory body, (B) leases and license agree-
15 ments, and (C) agreements where the period of per-
16 formance under such contract or subcontract will not
17 be in excess of thirty days;

18 (3) any contract or subcontract or performance
19 thereunder during a specified period or periods if, in
20 the opinion of the Board, the provisions of the contract
21 are otherwise adequate to prevent excessive profits;

22 (4) any contract or subcontract the renegotia-
23 tion of which would jeopardize secrecy required in the
24 public interest;

25 (5) any subcontract or group of subcontracts

1 not otherwise exempt from the provisions of this sec-
2 tion, if, in the opinion of the Board, it is not admin-
3 istratively feasible in the case of such subcontract or
4 in the case of such group of subcontracts to determine
5 and segregate the profits attributable to such subcon-
6 tract or group of subcontracts from the profits at-
7 tributable to activities not subject to renegotiation.

8 The Board may so exempt contracts and subcontracts both
9 individually and by general classes or types.

10 **SEC. 107. RENEGOTIATION BOARD.**

11 (a) **CREATION OF BOARD.**—There is hereby created, as
12 an independent establishment in the executive branch of
13 the Government, a Renegotiation Board to be composed
14 of five members appointed by the President, by and with
15 the advice and consent of the Senate. Not less than three
16 members of the Board shall be appointed from civilian life.
17 The President shall designate one member to serve as chair-
18 man of the Board. Each member shall receive compensation
19 at the rate of \$12,500 per annum. No member shall
20 engage in any business, vocation, or employment other than
21 that as a member of the Board. The Board shall have a
22 seal which shall be judicially recognized.

23 (b) **PLACES OF MEETINGS AND QUORUM.**—The prin-
24 cipal office of the Board shall be at such place as may be
25 determined from time to time by the Board, but it or any

1 division thereof may meet and exercise its powers at any
2 other place. The Board may establish such number of offices
3 as it deems necessary to expedite the work of the Board.
4 Three members of the Board shall constitute a quorum, and
5 any power, function, or duty of the Board may be exercised
6 or performed by a majority of the members present if the
7 members present constitute at least a quorum.

8 (c) PERSONNEL.—The Board is authorized, subject to
9 the civil service laws and the Classification Act of 1949,
10 to employ and fix the compensation of such officers and em-
11 ployees as it deems necessary to assist it in carrying out its
12 duties under this title. The Board may, with the consent
13 of the head of the agency of the Government concerned,
14 utilize the services of any officers or employees of the United
15 States, and reimburse such agency for the services so utilized.
16 Officers or employees whose services are so utilized shall not
17 receive additional compensation for such services, but shall
18 be allowed and paid necessary travel expenses and a per
19 diem in lieu of subsistence in accordance with the Standard-
20 ized Government Travel Regulations while away from their
21 homes or official station on duties of the Board.

22 (d) DELEGATION OF POWERS.—The Board may dele-
23 gate in whole or in part any function, power, or duty (other
24 than its power to promulgate regulations and rules) to any
25 agency of the Government, including any such agency estab-

1 lished by the Board, and may authorize the successive re-
2 delegation, within limits specified by it, of any such func-
3 tion, power, or duty to any agency of the Government,
4 including any such agency established by the Board.

5 (e) ORGANIZATION AND OPERATION OF BOARD.—The
6 Chairman of the Board may from time to time divide the
7 Board into divisions of one or more members, assign the
8 members of the Board thereto, and in case of a division
9 of more than one member, designate the chief thereof.
10 The Board may also, by regulations or otherwise, determine
11 the character of cases to be conducted initially by the Board
12 through an officer or officers of, or utilized by, the Board,
13 the character of cases to be conducted initially by the various
14 agencies of the Government authorized to exercise powers of
15 the Board pursuant to subsection (d) of this section, the
16 character of cases to be conducted initially by the various
17 divisions of the Board, and the character of cases to be con-
18 ducted initially by the Board itself. The Board may review
19 any determination in any case not initially conducted by it,
20 on its own motion or, in its discretion, at the request of
21 any contractor or subcontractor aggrieved thereby. Unless
22 the Board upon its own motion initiates a review of such
23 determination within ninety days from the date of such
24 determination, or at the request of the contractor or sub-
25 contractor made within ninety days from the date of such

1 determination initiates a review of such determination within
2 ninety days from the date of such request, such determination
3 shall be deemed the determination of the Board. If such
4 determination was made by an order with respect to which
5 notice thereof was given by registered mail pursuant to
6 section 105 (a), the Board shall give notice by registered
7 mail to the contractor or subcontractor of its decision not
8 to review the case. If the Board reviews any determination
9 in any case not initially conducted by it, it shall issue and
10 enter an order under section 105 (a) determining the
11 amount, if any, of excessive profits, and forthwith give notice
12 thereof by registered mail to the contractor or subcontractor.
13 The amount of excessive profits so determined upon review
14 may be less than, equal to, or greater than, that determined
15 by the agency of the Government whose action is so
16 reviewed.

17 (f) DELEGATION OF RENEGOTIATION FUNCTIONS TO
18 BOARD.—The Board is hereby authorized and directed to
19 accept and perform such renegotiation powers, duties, and
20 functions as may be delegated to it under any other law
21 requiring or permitting renegotiation, and the Board is
22 further authorized to redelegate any such power, duty, or
23 function to any agency of the Government and to authorize
24 successive redelegations thereof, within limits specified by
25 the Board. Notwithstanding any other provision of law, the

1 Secretary of Defense is hereby authorized to delegate to the
2 Board, in whole or in part, the powers, functions, and duties
3 conferred upon him by any other renegotiation law.

4 **SEC. 108. REVIEW BY THE TAX COURT.**

5 Any contractor or subcontractor aggrieved by an order
6 of the Board determining the amount of excessive profits
7 received or accrued by such contractor or subcontractor
8 may—

9 (a) if the case was conducted initially by the Board
10 itself—within ninety days (not counting Sunday or a
11 legal holiday in the District of Columbia as the last
12 day) after the mailing under section 105 (a) of the
13 notice of such order, or

14 (b) if the case was not conducted initially by the
15 Board itself—within ninety days (not counting Sunday
16 or a legal holiday in the District of Columbia as the
17 last day) after the mailing under section 107 (e) of
18 the notice of the decision of the Board not to review
19 the case or the notice of the order of the Board determin-
20 ing the amount of excessive profits,

21 file a petition with The Tax Court of the United States
22 for a redetermination thereof. Upon such filing such court
23 shall have exclusive jurisdiction, by order, to finally deter-
24 mine the amount, if any, of such excessive profits received or
25 accrued by the contractor or subcontractor, and such de-

1 termination shall not be reviewed or redetermined by any
2 court or agency. The court may determine as the amount of
3 excessive profits an amount either less than, equal to, or
4 greater than that determined by the Board. A proceeding
5 before the Tax Court to finally determine the amount, if
6 any, of excessive profits shall not be treated as a proceeding
7 to review the determination of the Board, but shall be
8 treated as a proceeding de novo. For the purposes of this
9 section the court shall have the same powers and duties,
10 insofar as applicable in respect of the contractor, the sub-
11 contractor, the Board, and the Secretary, and in respect of
12 the attendance of witnesses and the production of papers,
13 notice of hearings, hearings before divisions, review by the
14 Tax Court of decisions of divisions, stenographic reporting,
15 and reports of proceedings, as such court has under sections
16 1110, 1111, 1113, 1114, 1115 (a), 1116, 1117 (a), 1118,
17 1120, and 1121 of the Internal Revenue Code in the case of
18 a proceeding to redetermine a deficiency. In the case of any
19 witness for the Board, the fees and mileage, and the expenses
20 of taking any deposition shall be paid out of appropriations
21 of the Board available for that purpose, and in the case of
22 any other witnesses shall be paid, subject to rules prescribed
23 by the court, by the party at whose instance the witness
24 appears or the deposition is taken. The filing of a petition
25 under this section shall not operate to stay the execution of

1 the order of the Board under subsection (b) of section 105.
2 Any amount collected by the United States under an order
3 of the Board in excess of the amount found to be due under a
4 determination of excessive profits by the Tax Court shall be
5 refunded to the contractor or subcontractor with interest
6 thereon at the rate of 6 per centum per annum from the date
7 of collection by the United States to the date of refund.

8 **SEC. 109. RULES AND REGULATIONS.**

9 The Board may make such rules, regulations, and
10 orders as it deems necessary or appropriate to carry out the
11 provisions of this title.

12 **SEC. 110. COMPLIANCE WITH REGULATIONS, ETC.**

13 No person shall be held liable for damages or
14 penalties for any act or failure to act resulting directly or
15 indirectly from his compliance with a rule, regulation, or
16 order issued pursuant to this title, notwithstanding that any
17 such rule, regulation, or order shall thereafter be declared by
18 judicial or other competent authority to be invalid.

19 **SEC. 111. APPLICATION OF ADMINISTRATIVE PROCEDURE**
20 **ACT.**

21 The functions exercised under this title shall be ex-
22 cluded from the operation of the Administrative Procedure
23 Act (60 Stat. 237) except as to the requirements of section
24 3 thereof.

1 SEC. 112. APPROPRIATIONS.

2 There are hereby authorized to be appropriated such
3 sums as may be necessary and appropriate for the carrying
4 out of the provisions and purposes of this title. Funds
5 made available for the purposes of this title may be allocated
6 or transferred for any of the purposes of this title, with the
7 approval of the Bureau of the Budget to any agency of the
8 Government designated to assist in carrying out this title.
9 Funds so allocated or transferred shall remain available for
10 such period as may be specified in the Acts making such
11 funds available.

12 SEC. 113. PROSECUTION OF CLAIMS AGAINST UNITED
13 STATES BY FORMER PERSONNEL.

14 Nothing in title 18, United States Code, sections 281
15 and 283, or in section 190 of the Revised Statutes (U. S. C.,
16 title 5, sec. 99) shall be deemed to prevent any person by
17 reason of service prior to January 1, 1954, in performance
18 of duties or functions required by this Act, from acting as
19 counsel, agent, or attorney for prosecuting any claim against
20 the United States: *Provided*, That such person shall not pros-
21 ecute any claim against the United States (1) involving any
22 subject matter directly connected with which such person
23 was so employed, or (2) during the period such person is
24 engaged in employment in a department or the Board.

1 **TITLE II—MISCELLANEOUS PROVISIONS**

2 **SEC. 201. FUNCTIONS UNDER WORLD WAR II RENEGOTIA-**
3 **TION ACT.**

4 (a) **ABOLITION OF WAR CONTRACTS PRICE ADJUST-**
5 **MENT BOARD.**—The War Contracts Price Adjustment Board,
6 created by the Renegotiation Act, is hereby abolished.

7 (b) **TRANSFER OF FUNCTIONS IN GENERAL.**—All
8 powers, functions, and duties conferred upon the War Con-
9 tracts Price Adjustment Board by the Renegotiation Act
10 and not otherwise specifically dealt with in this section are
11 transferred to the Renegotiation Board.

12 (c) **AMENDMENT OF THE RENEGOTIATION ACT.**—Sub-
13 section (a) (4) (D) of the Renegotiation Act is amended
14 by inserting at the end thereof the following: “A net rene-
15 gotiation rebate shall not be repaid unless a claim there-
16 for has been filed with the Board on or before the date
17 of its abolition, or unless a claim shall have been
18 filed with the Administrator of General Services (i) on
19 or before June 30, 1951, or (ii) within ninety days
20 after the making of an agreement or the entry of an order
21 under subsection (c) (1) determining the amount of exces-
22 sive profits, whichever is later. A claim shall be deemed to
23 have been filed when received by the Board or the Adminis-
24 trator, whether or not accompanied by a statement of the

1 Commissioner of Internal Revenue showing the amortiza-
2 tion deduction allowed for the renegotiated year upon the re-
3 computation made pursuant to section 124 (d) of the In-
4 ternal Revenue Code.”

5 (d) TRANSFER OF CERTAIN FUNCTIONS.—All powers,
6 functions, and duties conferred upon the War Contracts
7 Price Adjustment Board by subsection (a) (4) (D) of
8 the Renegotiation Act, subject to the amendment there-
9 of by subsection (c) of this section, are hereby transferred
10 to the Administrator of General Services.

11 (e) FUNCTIONS AND RECORDS.—Each Secretary of a
12 Department is authorized and directed to eliminate the ex-
13 cessive profits determined under all existing renegotiation
14 agreements or orders by the methods enumerated in subsec-
15 tion (c) (2) of the Renegotiation Act in respect of all re-
16 negotiations conducted by his Department pursuant to dele-
17 gations from the War Contracts Price Adjustment Board.
18 The several Departments shall retain custody of the renego-
19 tiation case files covering renegotiations thus conducted for
20 such time as the Secretary deems necessary for the purposes
21 of this section, and thereafter they shall be made available
22 to the Renegotiation Board for appropriate disposition. The
23 renegotiation records of the War Contracts Price Adjustment
24 Board shall become records of the Renegotiation Board on
25 the effective date of this section.

1 (f) REFUNDS.—All refunds under subsection (a) (4)
2 (D) of the Renegotiation Act (relating to the recomputa-
3 tion of the amortization deduction), all refunds under the
4 last sentence of subsection (i) (3) of such Act (relating
5 to excess inventories), and all amounts finally adjudged or
6 determined to have been erroneously collected by the United
7 States pursuant to a determination of excessive profits, with
8 interest thereon in the last mentioned case at a rate not to
9 exceed 4 per centum per annum as may be determined by
10 the Administrator of General Services or his duly authorized
11 representative computed to the date of certification to the
12 Treasury Department for payment, shall be certified by the
13 Administrator of General Services or his duly authorized
14 representative to the Treasury Department for payment from
15 such appropriations as may be available therefor: *Provided*,
16 That such refunds shall be based solely on the certificate of
17 the Administrator of General Services or his duly authorized
18 representative.

19 (g) EXISTING POLICIES, PROCEDURES, ETC., TO RE-
20 MAIN IN EFFECT.—All policies, procedures, directives, and
21 delegations of authority prescribed or issued (1) by the War
22 Contracts Price Adjustment Board, or (2) by any Secretary
23 or other duly authorized officer of the Government, under
24 the authority of the Renegotiation Act, in effect upon the
25 effective date of this section and not inconsistent herewith,

1 shall remain in full force and effect unless and until super-
2 seded, or except as they may be amended, under the author-
3 ity of this section or any other appropriate authority. All
4 functions, powers, and responsibilities transferred by this sec-
5 tion shall be accompanied by the authority to issue appropri-
6 ate regulations and procedures, or to modify existing pro-
7 cedures, in respect of such powers, functions, and respon-
8 sibilities.

9 (h) SAVINGS PROVISION.—This section shall not be
10 construed (1) to prohibit disbursements authorized by the
11 War Contracts Price Adjustment Board and certified pursu-
12 ant to its authority prior to the effective date of this sec-
13 tion, (2) to affect the validity or finality of any agreement
14 or order made or issued pursuant to law by the War Con-
15 tracts Price Adjustment Board or pursuant to delegations of
16 authority from it, or (3) to prejudice or to abate any action
17 taken or any right accruing or accrued, or any suit or pro-
18 ceeding had or commenced in any civil cause; but any court
19 having on its docket a case to which the War Contracts
20 Price Adjustment Board is a party, on motion or supple-
21 mental petition filed at any time within twelve months after
22 the effective date of this section, showing a necessity for the
23 survival of such suit, action, or other proceeding to obtain
24 a determination of the questions involved, may allow the
25 same to be maintained by or against the United States.

1 (i) RENEGOTIATION ACT NOT REPEALED.—Except as
 2 by this Act specifically amended or modified, all provisions of
 3 the Renegotiation Act shall remain in full force and effect.

4 (j) DEFINITIONS.—The terms which are defined in the
 5 Renegotiation Act shall, when used in this section, have the
 6 same meaning as when used in the Renegotiation Act, except
 7 that where a renegotiation function has been transferred by
 8 or pursuant to law the terms “Secretary” or “Secretaries”
 9 and “Department” or “Departments” shall be understood to
 10 refer to the successors in function to those officers or offices
 11 specifically named in the Renegotiation Act.

12 (k) EFFECTIVE DATE OF SECTION.—This section shall
 13 take effect sixty days after the date of the enactment of this
 14 Act.

15 **SEC. 202. PERIOD OF LIMITATIONS FOR RENEGOTIATION**
 16 **ACT OF 1948.**

17 No proceeding under the Renegotiation Act of 1948
 18 to determine the amount of excessive profits for any fiscal
 19 year shall be commenced more than one year after the
 20 mandatory statement required by the regulations issued
 21 pursuant to such Act is filed with respect to such year,
 22 or more than six months after the date of the enactment of
 23 this title, whichever is the later, and if such proceeding is
 24 not so commenced (in the manner provided by the regula-
 25 tions prescribed pursuant to such Act), all liabilities of the

1 contractor or subcontractor under such Act for excessive
2 profits received or accrued during such fiscal year shall
3 thereupon be discharged. If an agreement or order deter-
4 mining the amount of excessive profits under such Act is
5 not made within two years following the commencement
6 of the renegotiation proceeding, then upon the expiration
7 of such two years all liabilities of the contractor or sub-
8 contractor for excessive profits with respect to which such
9 proceeding was commenced shall thereupon be discharged,
10 except that (1) such two-year period may be extended
11 by mutual agreement, and (2) if within such two years
12 such an order is duly issued pursuant to such Act, such
13 two-year limitation shall not apply to the review of such
14 order by any renegotiation board duly authorized to under-
15 take such review.

16 **SEC. 203. AMENDMENT OF SECTION 3806 OF THE INTER-**
17 **NAL REVENUE CODE.**

18 Section 3806 (a) (1) of the Internal Revenue Code
19 is hereby amended by striking out subparagraphs (A),
20 (B), and (C) and inserting in lieu thereof the following:

21 “(A) The term ‘renegotiation’ includes any
22 transaction which is a renegotiation within the
23 meaning of the Federal renegotiation act applicable
24 to such transaction, any modification of one or more

1 contracts with the United States or any agency
2 thereof, and any agreement with the United States
3 or any agency thereof in respect of one or more
4 such contracts or subcontracts thereunder.

5 “(B) The term ‘excessive profits’ includes any
6 amount which constitutes excessive profits within
7 the meaning assigned to such term by the applicable
8 Federal renegotiation act, any part of the contract
9 price of a contract with the United States or any
10 agency thereof, any part of the subcontract price
11 of a subcontract under such a contract, and any
12 profits derived from one or more such contracts or
13 subcontracts.

14 “(C) The term ‘subcontract’ includes any pur-
15 chase order or agreement which is a subcontract
16 within the meaning assigned to such term by the
17 applicable Federal renegotiation act.

18 “(D) The term ‘Federal Renegotiation Act’
19 includes section 403 of the Sixth Supplemental
20 National Defense Appropriation Act (Public 528,
21 77th Cong., 2d Sess.), as amended or supplemented,
22 the Renegotiation Act of 1948, as amended or
23 supplemented, and the Renegotiation Act of 1951,
24 as amended or supplemented.”

1 SEC. 204. SEPARABILITY PROVISION.

2 If any provision of this Act or the application of any
3 provision to any person or circumstance is held invalid,
4 the validity of the remainder of the Act and of the applica-
5 tion of its provisions to other persons and circumstances
6 shall not be affected thereby.

82ND CONGRESS
1ST SESSION

H. R. 1724

A BILL

To provide for the renegotiation of contracts,
and for other purposes.

By Mr. DOUGHTON

JANUARY 19, 1951

Referred to the Committee on Ways and Means

be a certainty in an open military conflict. Who can trust the Soviets to stop military aggression of their own accord? It has been inferred that America can stand alone. The facts do not give much support to this theory. We may be forced into such an undesirable position but it would be a short-sighted policy indeed to fail to help the development of economic, religious, and military resistance wherever we can find it. How else can atheistic aggression be stopped before it reaches our own shores? Our task will be increased a hundredfold if we try to go it alone.

All of us agree, however, that first priority should be given to building up our own defense. We demand it. We must also demand greater effort on the part of our allies, if they are to expect continued assistance from us. Not one of these countries, with the exception of Turkey, has waked up to its own peril to the extent of taking adequate military action.

Withdrawal of our troops from Korea may be a military necessity and it may be the wisest policy in view of the prospects of being thrown into an all-out war with China. So far China, with 450,000,000 people, has unleashed only a small part of her military forces. She has millions more in reserve. Russia is using Korea as a proving ground for tactics and equipment in preparation for bigger things to come. The solution depends upon our over-all policy regarding whether or not to abandon the entire Far East.

If we do not abandon the entire Far East, then all available forces must be used to stop Russia in that general area wherever and however it is militarily possible. The wraps must come off. Our fighting men and their families deserve this consideration. This would include strategic bombing wherever it is to our advantage. It would include the use of Korean guerrillas and troops, the estimated 1,500,000 Chinese guerrillas on the mainland, the 500,000 Chinese Nationalist troops on Formosa who must be re-armed, the Japanese, and other friendly nations. All must be used in a way that is most advantageous to our cause. Among the objectives of this course of action would be to prevent Russia from getting added industrial and man power and to keep her from being able to concentrate entirely in Europe.

To abandon the entire Far East will mean the immediate collapse of Japan, a country that has no arms at this time but has great industrial power. Another result of such a policy would be to leave Formosa and the friendly guerrillas in Korea and China helpless. The Philippines and Alaska would be seriously threatened so that the direct effect would be to move the war zone closer home and destroy the morale of our allies in Europe.

The same policy of withdrawal applied to Europe would mean the inevitable collapse of such industrial powers as Germany and England, along with the entire European Continent. This would hand over to Russia control of about 90 percent of the world's manpower, and a combined industrial capacity comparable to ours, and backed up by the world's

largest army—an army which is ready to go into action now.

In case we withdraw from Europe and the Far East either voluntarily or involuntarily, we could not count on anything but war coming to our own shores very quickly in the most devastating form yet known to man.

The greatest deterrent to a world war now is the temporary advantage we hold in the quantity and quality of the atomic bomb. However, we must bear in mind that Russia can send over one-way, suicide, sneak A-bomb attackers and level some of our cities at this very time. The power of our A-bomb is not great enough to win a war alone and our superiority in this field is fast diminishing. We must strengthen ourselves immediately to make up for this loss. The second greatest deterrent to a world war now is our long-range advantage in production which must be thrown into high gear before it is too late.

Mr. Speaker, our people in the ninth district are representative of America in that they have too much faith in our way of life, too much character, vitality, and independence to bow to Russia. My people know down deep in their hearts that the forces of evil are not going to conquer the world ultimately. Atheistic communism cannot dominate the minds of men very long because such unfortunate people will eventually realize that they have been deceived by false promises. It cannot dominate the souls of men very long because man inevitably seeks a higher being. The religious and freedom-loving peoples of the world are slowly but surely lining up solidly against Russia for a show-down. But the number of us, both as individuals and as nations, who will be living to enjoy freedom again, is in direct proportion to the speed, vigor, and intelligence with which we tackle this task together.

The freedom of America was not easily won and it will not be easily defended. The safest course, Mr. Speaker, is bold, common-sense action. I submit the following programs for immediate consideration and urge their inclusion in our emergency policies:

First. Bring in top leadership for Government service and set up a permanent advisory commission to the President, on foreign affairs.

Second. Initiate a full-scale debate in the House of Representatives on foreign policy, adopting programs that have the backing of our people which is so necessary for success.

Third. Mobilize all industry; catalog every citizen according to his capabilities for emergency national service; step up production; work to keep production lines rolling.

Fourth. Stop publicity and leaks of secret military information which have caused unnecessary loss of lives.

Fifth. Concentrate on the improvement of our military intelligence.

Sixth. Place a complete embargo on Russia, Red China, and Soviet-dominated countries. Put more pressure on all countries who are sending war materials to Russia to prevent future shipments.

Seventh. Enact a plan for the Government to finance the war on a pay-as-you-go basis in the fairest possible manner. Cut out unnecessary nonmilitary spending.

Eighth. Effect across-the-board controls, including price and wage controls, to stop run-away inflation which threatens to wreck our economy.

Ninth. Mobilize and fully train the necessary Armed Forces as quickly as possible, with particular emphasis on a permanent training program.

Tenth. Utilize the Japanese and Chinese Nationalists to the best possible advantage in the far-eastern war.

Eleventh. Speed up the mobilization of the army of Europe, pressing into service German, Spanish, French, and Yugoslavian troops.

Twelfth. Let Russia know we will use the atomic bomb when and where it will do the most good.

Thirteenth. Improve our counterspy and espionage system and make use of DP's in this connection as much as possible.

Fourteenth. Develop a strong civilian defense program.

Fifteenth. Take the initiative of world leadership away from atheistic Russia.

Sixteenth. Ask for divine guidance as our country is being called upon to lead the free world in the most crucial period of our history.

(Mr. BATTLE asked and was given permission to revise and extend the remarks he made on behalf of the resolution passed earlier in the day.)

MEMBERS OF JOINT COMMITTEE ON DEFENSE PRODUCTION

The SPEAKER laid before the House the following communication:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING
AND CURRENCY,
Washington, January 19, 1951.

Hon. SAM RAYBURN,
Speaker of the House
of Representatives,
Washington, D. C.

DEAR MR. SPEAKER: Pursuant to section 712 (a) (2) of the Defense Production Act of 1950 (Public Law 774, Eighty-first Congress), I hereby appoint the following members of the Committee on Banking and Currency of the House of Representatives as members of the Joint Committee on Defense Production: PAUL BROWN, WRIGHT PATMAN, ALBERT RAINS, RALPH A. GAMBLE, HENRY O. TALLE.

Respectfully,

BRENT SPENCE,
Chairman.

EXTENSION OF REMARKS

Mr. ASPINALL asked and was given permission to extend his remarks in two instances and include in each an editorial.

Mr. MANSFIELD asked and was given permission to extend his remarks in two instances, and include in one a telegram and in the other extraneous matter.

Mr. FOGARTY asked and was given permission to extend his remarks and include a copy of a bill he is introducing today on unification of Ireland.

Mr. DOYLE asked and was given permission to extend his remarks in two instances and include appropriate material.

Mr. KELLEY of Pennsylvania asked and was given permission to extend his remarks and include an article from the Washington Post by J. A. Livingston.

Mr. BAILEY asked and was given permission to extend his remarks and include a letter from Dr. M. J. Horsch.

Mr. CRAWFORD asked and was given permission to extend his remarks in two instances and include quotations and other extraneous matter.

Mr. VURSELL asked and was given permission to extend his remarks and include an editorial.

Mr. H. CARL ANDERSEN asked and was given permission to extend his remarks and include a letter.

Mr. MCGREGOR asked and was given permission to extend his remarks and include a newspaper editorial.

Mr. BAKER asked and was given permission to extend his remarks and include an editorial from the Memphis Press-Scimitar.

Mr. KEATING asked and was given permission to extend his remarks in two instances and include addresses.

Mr. MERROW asked and was given permission to extend his remarks and include an editorial from the New York Times.

Mr. COLE of New York (at the request of Mr. Towe) was given permission to extend his remarks and include an article.

Mr. CUNNINGHAM asked and was given permission to extend his remarks and include a letter from a constituent.

Mr. LECOMPTE asked and was given permission to extend his remarks in two instances and include resolutions by a group of American Legion posts and a statement by the Association of American Colleges.

Mr. EDWIN ARTHUR HALL asked and was given permission to extend his remarks.

Mr. LOVRE asked and was given permission to extend his remarks and include a letter.

Mr. DEWART asked and was given permission to extend his remarks in two instances and include in one a newspaper story.

Mr. MORTON asked and was given permission to extend his remarks and include a letter from a constituent.

Mr. VAN ZANDT asked and was given permission to extend his remarks in two instances and include an editorial in each instance.

Mr. GATHINGS asked and was given permission to extend his remarks in two instances and in each include an editorial.

Mr. RANKIN asked and was given permission to extend his remarks in two instances and include extraneous matter.

Mr. SMITH of Wisconsin asked and was given permission to extend his remarks in three instances and include extraneous matter.

Mr. REES of Kansas asked and was given permission to extend his remarks and include a resolution.

Mr. POULSON asked and was given permission to extend his remarks in two instances and include extraneous matter.

Mr. PATTERSON (at the request of Mr. MARTIN of Massachusetts) was given

permission to extend his remarks and include an address by Mr. D. Hayes Murphy.

Mr. ELLIOTT asked and was given permission to extend his remarks and include a speech he delivered today.

Mr. BOYKIN (at the request of Mr. ELLIOTT) was given permission to extend his remarks and include extraneous matter.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. BREEN, indefinitely, on account of illness.

ADJOURNMENT

Mrs. BOSONE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 35 minutes p. m.), under its previous order, the House adjourned until Monday, January 22, 1951, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

90. A letter from the Secretary of Defense, transmitting a draft of a proposed bill entitled "A bill to provide for the common defense and security of the United States and to permit the more effective utilization of manpower resources of the United States by authorizing universal military service and training, and for other purposes"; to the Committee on Armed Services.

91. A letter from the Secretary of Defense, transmitting a letter recommending a change in the proposed universal military service bill submitted by the Secretary of Defense; to the Committee on Armed Services.

92. A letter from the Assistant Secretary of Defense, transmitting a draft of a proposed bill entitled "A bill to provide additional compensation for members of the Army, Navy, and Air Force during periods of combat duty in Korea"; to the Committee on Armed Services.

93. A letter from the Secretary of the Army, transmitting the report of the American National Red Cross and the retirement system of the corporation for the fiscal year ended June 30, 1950, pursuant to the act of Congress approved January 5, 1905 (33 Stat., p. 599), entitled "An act to incorporate the American National Red Cross", as amended; to the Committee on Foreign Affairs.

94. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, United States Army, dated August 1, 1950, submitting a report, together with accompanying papers and an illustration, on a preliminary examination and survey of Parrotts Creek, Middlesex County, Va., authorized by the River and Harbor Act, approved on March 2, 1945 (H. Doc. No. 46), to the Committee on Public Works and ordered to be printed, with one illustration.

95. A letter from the Chairman, Interstate Commerce Commission, transmitting copies of the final valuations of properties of certain carriers, pursuant to provisions of section 19a of the Interstate Commerce Act; to the Committee on Interstate and Foreign Commerce.

96. A letter from the Chairman, Interstate Commerce Commission, transmitting the Sixty-fourth Annual Report of the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

97. A letter from the Assistant Secretary of the Interior, transmitting copies of legislation passed by the municipal council of St. Thomas and St. John, pursuant to section 16 of the Organic Act of the Virgin Is-

lands of the United States, approved June 22, 1936; to the Committee on Public Lands.

98. A letter from the Acting President, Board of Commissioners of the District of Columbia, transmitting a draft of a proposed bill entitled "A bill to permit the exchange of land belonging to the District of Columbia for land belonging to the abutting property owner or owners, and for other purposes"; to the Committee on the District of Columbia.

99. A letter from the Attorney General, transmitting a draft of a proposed bill entitled "A bill to regulate the interception of communications in the interest of national security and the safety of human life"; to the Committee on the Judiciary.

100. A letter from the Secretary of State, transmitting the third annual report of claims paid by the Department of State during the calendar year 1950 under part 2 of the Federal Tort Claims Act, as amended, pursuant to section 404 of the Federal Tort Claims Act, as amended; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar as follows:

Mr. DOUGHTON: Committee on Ways and Means. H. R. 1724. A bill to provide for the renegotiation of contracts, and for other purposes; without amendment (Rept. No. 7). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DOUGHTON:

H. R. 1724. A bill to provide for the renegotiation of contracts, and for other purposes; to the Committee on Ways and Means.

By Mr. MANSFIELD:

H. R. 1725. A bill to establish a Commission on Cooperative International Relations; to the Committee on Foreign Affairs.

By Mr. KILDAY:

H. R. 1726. A bill to provide for the organization of the Air Force and the Department of the Air Force, and for other purposes; to the Committee on Armed Services.

By Mr. BAILEY:

H. R. 1727. A bill to provide that, in the determination of the amount which certain local educational agencies are entitled to receive for school-construction purposes, no reduction in such amount shall be made for prior construction under the WPA, PWA, and NYA programs; to the Committee on Education and Labor.

By Mr. BUCKLEY:

H. R. 1728. A bill to authorize a program to provide for the construction of Federal buildings outside of, but in the vicinity of and accessible to, the District of Columbia, and for other purposes; to the Committee on Public Works.

By Mr. CROSSER:

H. R. 1729. A bill to amend section 410 of the Communications Act of 1934 with respect to cooperation with State commissions; to the Committee on Interstate and Foreign Commerce.

H. R. 1730. A bill to amend section 4 (g) of the Communications Act of 1934 to permit the Federal Communications Commission to make expenditures for land for radio monitoring stations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DOUGHTON:

H. R. 1731. A bill to authorize the payment of interest on savings bonds retained after

RENEGOTIATION ACT OF 1951

JANUARY 20, 1951.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DOUGHTON, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H. R. 1724]

The Committee on Ways and Means, to whom was referred the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

HEARINGS

Your committee held extensive hearings on similar legislation late in the second session of the Eighty-first Congress, but the work of the committee on urgent tax legislation precluded further consideration at that time. During the hearings testimony was received on the operation of prior and present renegotiation laws from the chairman of the Committee on Armed Services of the House of Representatives, representatives of the executive departments, and witnesses from industry, agriculture, and mining. These hearings have now been thoroughly reviewed by the committee. The draft of the present bill conforms, with but one or two exceptions, with all the major provisions of a draft of legislation which was coordinated by the Bureau of the Budget among all the interested departments and agencies of the Government.

NEED FOR LEGISLATION

In deciding to report this bill your committee determined, first, that substantially the same conditions affecting the procurement of supplies for defense that necessitated the enactment of the renegotiation

statutes during World War II, are again present; and second, that the Renegotiation Act of 1948, now current, is inadequate to provide the coverage and the economic safeguards required by these conditions.

The country has embarked once more upon a vast program of military procurement as a defense against aggression. In the prosecution of this undertaking, industry will be called upon again—indeed, is already being called upon—to manufacture and deliver essential supplies and equipment hastily and against accelerated delivery schedules, without sufficient opportunity to make accurate cost estimates for the production of such items.

It is recognized, too, that contractors will be asked again to produce items not included in the customary output of their plants, as well as many items that are wholly new and unfamiliar to them or which have been invented or developed since the close of World War II. Doubtless many changes and improvements have also been made in the manufacturing processes of items previously produced.

Again, the magnitude of the defense program will entail the procurement of supplies in enormous quantities far in excess of ordinary commercial levels, with consequent inevitable effect on production costs. The full extent of this effect will not be easily determinable in advance with any degree of accuracy.

For these reasons, it is evident that contractors and contracting officers will be unable in countless instances to make accurate forecasts of costs on which to base prices and, therefore, that close initial pricing will be almost impossible to achieve. Nevertheless, the procurement of needed military supplies and equipment cannot be delayed for the completion of cost and price analyses that might otherwise be made as an incident to careful purchasing. In addition, it must be anticipated that specifications, quantities, and delivery rates will be revised from time to time in the light of experience and to keep pace with the fluctuations of actual or threatened military situations.

These are the major difficulties and uncertainties that prompted the adoption and continuance of statutory renegotiation of contracts throughout World War II. The same conditions make it necessary today.

The World War II renegotiation law was made inapplicable to performance after December 31, 1945, under contracts or subcontracts. After a lapse of less than 2½ years, a new renegotiation statute, limited to contracts for aircraft construction and certain related procurement, was again enacted by the Congress, effective May 21, 1948. This act, the Renegotiation Act of 1948, has since been extended and broadened by several later enactments, and is still being actively administered. Your committee feels, however, that the provisions of that act are inadequate to protect to a sufficient extent the enormous expenditures contemplated by recent appropriations.

Thus, in general, the act of 1948 does not apply to contracts entered into prior to May 21, 1948, although some contracts entered into prior to that date are still in production. It does not cover any contract obligating fiscal 1949 funds for items other than aircraft and aircraft parts, although here again it is possible that some such contracts are still in production. It does not cover most contracts entered into in the fiscal years 1950 and 1951 as a result of formal advertising and competitive bidding, being limited in scope to negotiated contracts entered

into during those years. It does not attach to any contracts for \$1,000 or less, notwithstanding the substantial dollar aggregate of such contracts. Finally, it does not cover contracts of any Government agencies other than the Department of Defense, which is a serious deficiency in view of the steadily increasing procurement activity of various other Government departments.

INDEPENDENT RENEGOTIATION BOARD

Under the bill, the primary responsibility for renegotiation of contracts is vested in an independent establishment in the executive branch of the Government to be known as the Renegotiation Board. The Board is to be composed of five members appointed by the President by and with the advice and consent of the Senate.

Members of the Board, at least three of whom must be appointed from civilian life, are to draw compensation at the rate of \$12,500 per annum. The Chairman of the Board is to be designated by the President.

The creation of an independent board and the limitation upon the appointment of members of the armed services are intended to keep final responsibility for the renegotiation of Government contracts separate from the procurement authorities which initially issued the contracts. Your committee firmly believes that only the creation of a separate agency will insure the objectivity of business judgment and the uniformity of decision so essential to the fair and equitable administration of renegotiation.

The Renegotiation Board may well find it necessary and desirable to delegate some of its authority to conduct renegotiation proceedings to the agencies charged with procurement. It is intended, however, that any delegation of authority should be exercised in such a manner as to avoid unnecessary duplication of renegotiation offices and personnel in the same geographical area. Moreover, it is the desire of your committee that, insofar as practicable, renegotiation duties and functions should not be delegated to agency personnel who are directly responsible for procurement.

While delegation of sufficient authority to permit effective and efficient administration is authorized and desired, the formulation of such broad policies and basic decisions as are properly the scope of rules and regulations cannot be delegated by the Board. Nor is the requirement that at least three members must be appointed from civilian life intended as a suggestion that the President should not appoint the entire membership of the Board from civilian background.

MAJOR PROVISIONS OF THE BILL

The bill would make subject to renegotiation all of the moneys received or accrued by a contractor and related subcontractors on or after January 1, 1951, where the contracts are with the Departments of Defense, Army, Navy, Air Force, Commerce, the General Services Administration, the Atomic Energy Commission, and such other agencies exercising functions in connection with the national defense as the President may designate. It is provided, however, that a contractor or subcontractor shall not be renegotiated for any year unless he has received or accrued more than \$100,000 in the year.

Subcontractors whose income is derived from certain fees or commissions would be renegotiated for any year in which they have receipts and accruals of \$25,000 or more.

The following contracts and subcontracts are exempted from the provisions of this bill:

1. Contracts or subcontracts with producers of agricultural commodities for the agricultural commodity in its raw or natural state or, if the commodity is not customarily sold or does not have an established market in its raw or natural state, in the first form or state beyond the raw or natural state in which it is customarily sold or has an established market.

2. Contracts or subcontracts for the product of mines, oil or gas wells, mineral or natural deposits where a product has not been processed, refined, or treated beyond the ordinary treatment processes, normally applied in order to obtain the first commercially marketable product, but only if such contract or subcontract is with the owner or operator of the producing property. Ordinary treatment processes in the case of mines, wells, and deposits are defined as being those used in determining gross income from property for which a percentage depletion allowance is provided in section 114 (b) (3) or (4) of the Internal Revenue Code. In the case of other products, the Board will prescribe regulations defining ordinary treatment processes.

3. Contracts or subcontracts for timber which has not been processed beyond the form of logs where the contract or subcontract is with the owner of the timber property or the producer of the logs.

4. Subcontracts directly or indirectly under a contract or subcontract to which the Renegotiation Act does not apply by reason of any of the above exemptions.

5. Contracts with States, possessions, Territories, or foreign governments.

In the case of integrated producers of exempted products, the Renegotiation Board by regulation will prescribe a cost allowance substantially equivalent to the amount at which the product could be sold in the exempted state or form.

The Board is given discretionary authority to exempt contracts or subcontracts which fall within the categories specified in the bill. These include contracts to be performed outside the United States, certain contracts and subcontracts where the profits can be determined with reasonable certainty when the contract price is established, contracts and subcontracts where the provisions are considered adequate to prevent excessive profits, contracts or subcontracts the renegotiation of which would jeopardize secrecy required in the public interest, and contracts and subcontracts with respect to which it is not administratively feasible to determine and segregate renegotiable profits from profits attributable to activities not subject to renegotiation. The Board may exempt these contracts and subcontracts, both individually and by general classes or types.

The bill provides that determinations of the Renegotiation Board will be subject to review *de novo* by The Tax Court of the United States, and makes its redeterminations final.

SECTION BY SECTION ANALYSIS OF THE BILL

TITLE I—RENEGOTIATION OF CONTRACTS

SECTION 101. DECLARATION OF POLICY

This section takes cognizance of the extensive funds that have been provided for the execution of the national defense program, and declares it to be the considered policy of the Congress, in the interests of the national defense and the general welfare of the Nation, that excessive profits from contracts made with the United States, and from related subcontracts, be eliminated as provided in the bill.

SECTION 102. COVERAGE OF THE ACT

The provisions of title I are made applicable to all contracts with the departments specifically named in the bill, and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after January 1, 1951. It is intended and expressly stated that these provisions shall apply to such contracts and subcontracts, to the extent indicated, irrespective of whether such contracts or subcontracts were made on, before, or after January 1, 1951.

The provisions of title I are also made applicable to all contracts with the departments designated by the President pursuant to authority granted in the bill, and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of the first month beginning after the date of such designation. Here again it is stated that the provisions of this title shall apply whether or not the affected contracts or subcontracts were made on, before, or after the date of designation.

The provisions of this title are made inapplicable to receipts or accruals attributable to performance, under contracts or subcontracts, after December 31, 1953. Under the provisions of the bill, amounts received or accrued after December 31, 1953, will be subject to the title only if such receipts or accruals are attributable to performance prior to that date, and renegotiation shall not apply to amounts received or accrued on or prior to December 31, 1953, if such receipts or accruals are attributable to performance subsequent to that date.

It is provided in subsection (b) that the Renegotiation Act of 1948 shall not apply with respect to any receipts or accruals subject to renegotiation under title I of this bill. This provision avoids the application of both renegotiation statutes to the same receipts and accruals, because many contracts and subcontracts, or the receipts or accruals therefrom on or after January 1, 1951, subject to renegotiation under this bill, would otherwise also be subject to renegotiation under the Renegotiation Act of 1948.

In some instances receipts or accruals subject to the title will not, for the purposes of subsection (b) of this section of the bill, be "receipts or accruals subject to renegotiation under this title" by reason of the \$100,000 or \$25,000 minimum limitation set forth in section 105 (f) of the bill. If the receipts or accruals of a contractor

or subcontractor (excluding subcontracts described in section 103 (g) (3) of the bill) aggregate more than \$100,000 in the fiscal year, all of such receipts or accruals (and not merely the excess over \$100,000) are subject to renegotiation under this title, notwithstanding the provision in section 105 (f) (1) that the excessive profits cannot be eliminated below the \$100,000 figure. If the receipts or accruals do not aggregate more than \$100,000 in the fiscal year (excluding subcontracts described in section 103 (g) (3)), none of such receipts or accruals is subject to renegotiation under this title in view of the provision in section 105 (f) (1) that the receipts or accruals in such a case shall not be renegotiated.

For example, assume that a contractor with a fiscal year ending June 30, 1951, receives or accrues \$90,000 during the last 6 months of the calendar year 1950 and \$90,000 during the first 6 months of the calendar year 1951, under a negotiated contract entered into on August 15, 1950, with the Department of the Air Force. The \$90,000 received or accrued in 1951 would not be subject to renegotiation under this bill and would therefore be amenable to the act of 1948, together with the \$90,000 received or accrued in 1950, making an aggregate of \$180,000 subject to renegotiation under that act.

If, in the above illustration, the receipts or accruals of the contractor for each half of his fiscal year aggregated in excess of \$100,000, the amount received or accrued in the first half year would be subject to renegotiation under the Renegotiation Act of 1948 and the amount received or accrued in the second half year would be subject to renegotiation under the present bill. In order to avoid, in such circumstances, the necessity for two separate renegotiation proceedings, the Board and the contractor may enter into an agreement for a single renegotiation proceeding under the present bill. In such proceeding, the present bill would apply to the contractor's aggregate receipts or accruals for his entire fiscal year, and the provisions of the act of 1948 would not apply to any of his receipts or accruals during such year.

Continuing the policy adopted under the Renegotiation Act of 1948, it is provided in subsection (c) that the profit-limitation provisions of the act of March 27, 1934 (Vinson-Trammell Act), shall not apply to any contract or subcontract if any of the receipts or accruals therefrom are subject to this title. Under this provision, if any portion of the receipts or accruals from a contract or subcontract, whenever made, is subject to this title, such contract or subcontract shall not be subject to the profit-limitation provisions of the Vinson-Trammell Act. If any of the receipts or accruals are subject to this title it is immaterial for the purposes of subsection (c) that such receipts or accruals are not subject to renegotiation under the title by reason of the minimum limitations provided in section 105 (f). It is considered that receipts or accruals of a contractor aggregating \$100,000 or less in a fiscal year are "subject to this title", notwithstanding that such receipts or accruals are not "subject to renegotiation under this title", as these words are used in section 102 (b).

SECTION 103. DEFINITIONS

For the purposes of this title, the term "Department" is defined to mean the Departments of Defense, Army, Navy, Air Force, and Commerce, the General Services Administration, the Atomic Energy

Commission, and such other agencies of the Government exercising functions in connection with the national defense as the President shall designate.

The definition of "excessive profits" contained in the bill sets forth certain factors to be taken into consideration in the determination of excessive profits. The factors prescribed are: Efficiency of contractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower; reasonableness of costs and profits, with particular regard to volume of production, normal earnings, and comparison of war and peacetime products; reasonableness of return on net worth, with particular regard to the amount and source of public and private capital employed; extent of risk assumed, including the risk incident to reasonable pricing policies; nature and extent of contribution to the defense effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance; character of business, including source and nature of materials, complexity of manufacturing technique, character and extent of subcontracting, and rate of turn-over; and such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted.

Profits derived from contracts and subcontracts subject to the bill are defined to mean the excess of the amount received or accrued thereunder over the costs paid or incurred with respect thereto and determined to be allocable thereto. All items estimated to be allowable as deductions and exclusions under chapter I of the Internal Revenue Code (excluding taxes measured by income) are, to the extent allocable to such contracts and subcontracts, allowed as items of cost, but no amount is allowed as an item of cost by reason of the application of a carry-over or carry-back. Such costs generally shall be determined in accordance with the method of cost accounting regularly employed by the contractor or subcontractor in keeping its books. Costs that are unreasonable or are not properly chargeable to contracts with the Departments, or subcontracts, are disallowed. Federal income taxes are not allowable as items of cost. However, after the excessive profits have been determined, credit is allowed for any Federal income and excess-profits taxes paid with respect thereto.

In addition to the foregoing, this section contains definitions of the following terms: "Secretary," "Board," "subcontract," "fiscal year," "renegotiate," "renegotiation," "received or accrued," "paid or incurred," "person," "materials," and "agency of the Government."

SECTION 104. RENEGOTIATION CLAUSE IN CONTRACTS

This section requires the Secretary of each Department to whose contracts the provisions of this title are applicable to insert in each contract a provision whereby the contractor agrees to the elimination of excessive profits through renegotiation, and to certain procedures relating to the repayment of such excessive profits, and agrees to insert a similar provision in each subcontract entered into by such contractor. The section provides specifically that the provisions of this title will apply to a contract or subcontract within the purview of this

title, whether or not such contract or subcontract contains a renegotiation clause.

SECTION 105. RENEGOTIATION PROCEEDINGS

Renegotiation proceedings are commenced by the mailing of notice to that effect, by registered mail, to the contractor or subcontractor. The Board then endeavors to make an agreement with the contractor or subcontractor with respect to the elimination of excessive profits, if any. If no agreement is concluded, the Board issues an order determining the amount, if any, of such excessive profits, giving notice thereof by registered mail to the contractor or subcontractor. Unless a timely petition is filed with the Tax Court of the United States, such order is final and conclusive and not subject to review or redetermination by any court or other agency.

Provision is made that renegotiation shall be conducted with respect to the aggregate of the amounts received or accrued by a contractor or subcontractor under subject contracts or subcontracts during his fiscal year or such other period as may be fixed by mutual agreement, and not separately with respect to amounts received or accrued under separate contracts or subcontracts. However, at the request of the contractor or subcontractor, the Board may renegotiate amounts received or accrued under any one or more separate contracts or subcontracts. The Board is also authorized in its discretion, by agreement with a contractor or subcontractor, to conduct renegotiation on a consolidated basis in order properly to reflect excessive profits of two or more related contractors or subcontractors. In any case where a determination of excessive profits is made by order, the Board is required, at the request of the contractor or subcontractor, to furnish a statement of the amount of such determination, of the facts used as a basis therefor, and of its reasons for such determination; but such statement may not be used in the Tax Court of the United States as proof of the facts or conclusions stated therein.

The amount of excessive profits having been determined, whether by agreement or order, the Board is required in subsection (b) to authorize and direct the Secretaries or any one of them to eliminate such excessive profits by reducing the amounts otherwise payable to the contractor; by withholding from amounts otherwise due to the contractor; by directing any person having a contract with any agency of the Government, or any subcontractor thereunder, to withhold for the account of the United States from any amounts otherwise due from such person or subcontractor to the contractor or subcontractor having excessive profits to be eliminated; by recovery from the contractor or subcontractor or from any person or subcontractor directed to withhold as above stated, through payment, repayment, credit, or suit; or by any combination of these methods deemed desirable. Interest at the rate of 6 percent per annum is payable on unpaid excessive profits determined either by agreement or order.

Actions in the appropriate courts of the United States may be brought to recover excessive profits determined and not withheld or otherwise eliminated. The surety under a contract or subcontract is not to be liable for the repayment of any excessive profits thereon. All persons are indemnified by the Government against claims on account of amounts withheld and paid over to the United States. All money recovered by way of repayment or suit is to be covered into

the Treasury as miscellaneous receipts, except that all money recovered in respect of amounts paid to the contractor from corporate or other revolving funds is to be restored to such funds.

Credit is to be allowed the contractor or subcontractor for Federal income and excess-profits taxes as provided in section 3806 of the Internal Revenue Code.

Subsection (c) prohibits the commencement of any proceeding to determine the amount of excessive profits for any fiscal year more than 1 year after the financial statement required from the contractor or subcontractor for such year is filed with the Board, and requires the completion of said proceeding, by agreement or order, within 2 years after commencement. If the proceeding is not commenced and completed within said respective periods, all liabilities of the contractor or subcontractor for excessive profits received or accrued during such fiscal year are thereupon discharged, except that such 2-year period may be extended by mutual agreement and such 2-year limitation does not apply to review by the Board of an order made within such 2 years pursuant to any delegation of authority from the Board.

The Board is given authority in subsection (d) to make final or other agreements with a contractor or subcontractor for the elimination of excessive profits and for the discharge of any liability for excessive profits under title I. Any such agreement is conclusive according to its terms, and, in the absence of fraud, malfeasance, or a willful misrepresentation of a material fact, shall not be reopened or modified by the Government and shall not be modified or set aside in any suit, action, or proceeding. The Board may, however, modify any agreement or order for the purpose of extending the time for payment of sums due thereunder.

Subsection (e) requires every person holding contracts or subcontracts subject to the provisions of title I to file with the Board, on or before the first day of the fourth calendar month following the close of his fiscal year, in such form and detail as the Board may by regulations prescribe, a financial statement setting forth such information as the Board may by regulations prescribe. Any additional information, records, or data specified by the Board are also required to be filed by every such person at such time or times and in such form and detail as the Board may by regulations prescribe. The willful failure or refusal to furnish any such statement or other material, or the filing of any such statement or other material known to be false or misleading in any material respect, is punishable, upon conviction thereof, by a fine of not more than \$10,000 or imprisonment for not more than 1 year, or both.

Subsection (e) also confers upon the Board the right to audit the books or records of any contractor or subcontractor subject to title I. For this purpose, in the interest of economy and to avoid duplicate inspections and audits, it is provided that the services of the Bureau of Internal Revenue shall, upon request of the Board and the approval of the Secretary of the Treasury, be made available to the extent determined by the Secretary of the Treasury.

In the case of subcontracts described in section 103 (g) (3), if the aggregate of amounts subject to the provisions of title I received or accrued from such subcontracts during a fiscal year by any subcontractor, and all persons under control of or controlling or under common control with him, is not more than \$25,000, subsection (f)

provides that such receipts or accruals shall not be renegotiated under this title. If the aggregate of amounts subject to the provisions of title I received or accrued from all other contracts and subcontracts during a fiscal year by any contractor or subcontractor, and all persons under control of or controlling or under common control with such contractor or subcontractor, is not more than \$100,000, the bill provides that such receipts or accruals shall not be renegotiated under this title. In either case, no determination of excessive profits to be eliminated for such year may be in an amount greater than the amount by which such aggregate exceeds \$25,000 or \$100,000, as the case may be.

The bill provides that intercompany sales shall not be eliminated in computing the amounts received or accrued during any fiscal year for the purposes of subsection (f). Provision is also made that if the fiscal year of a contractor or subcontractor is a fractional part of 12 months, the \$100,000 amount and the \$25,000 amount shall be reduced to the same fractional part thereof for the purposes of subsection (f).

SECTION 106. EXEMPTIONS

This section exempts from renegotiation—

1. Contracts by a department with any Territory, possession, or State, or any agency or political subdivision thereof, or with any foreign government or any agency thereof.

2. Contracts and subcontracts with the producer for an agricultural commodity in its raw or natural state or, in the case of a commodity not customarily sold or not having an established market in its raw or natural state, in the first form or state beyond the raw or natural state in which it has an established market.

The definition of an agricultural product is broad and includes not only products resulting from the cultivation of the soil but also includes natural resins, saps, and gums of trees; animals, fish, and the produce of live animals, such as wool, eggs, milk, and cream.

3. Contracts and subcontracts with the producer for the product of a mine, oil, or gas well, or other mineral or natural deposit, which has not been processed, refined, or treated beyond the ordinary treatment processes normally applied by producers in order to obtain the first commercially marketable product.

The processes, refinements, or treatments to which such product may be subjected without passing beyond the first marketable state are the same as those provided by the Internal Revenue Code for use in computing income from property for purposes of percentage depletion, where applicable, or, where not applicable, such similar processes as may be prescribed by regulation.

Thus, iron ore may be sorted, concentrated, sintered to bring to shipping grade and form, and loaded for shipment without passing beyond the first commercially marketable state. If it is processed, refined, or treated in any other manner it has gone beyond such first state and the exemption would not apply. This is true even though one or more of the ordinary treatment processes may have been omitted. The mere transportation of the product is not a further processing, treatment, or refining thereof.

4. Any contract or subcontract for timber which has not been processed beyond the form of logs, but only if such contract or sub-

contract is with the owner of the timber property or with the producer of the logs.

5. Any subcontract directly or indirectly under a contract or subcontract of the kind described in 1, 2, 3, and 4 above.

To insure the equitable treatment of contractors or subcontractors producing minerals, oil or gas, or timber, and who process, refine, or treat such products beyond the first commercially marketable state, or who produce agricultural products and process, refine, or treat them beyond the first form or state in which they are customarily sold or in which they have an established market, the Board is required in subsection (c) to prescribe such regulations as may be necessary to give the contractor or subcontractor a cost allowance for products produced by him substantially equivalent to the amount which would have been realized by him if he had sold such products in their first form or state.

This section also authorizes the Board, in its discretion, to exempt from renegotiation contracts or subcontracts which fall within the categories specified in subsection (c), either individually or by general classes or types. These categories with one exception were contained in the Renegotiation Act in effect during World War II. The category added by this bill is as follows:

Any contract or subcontract the renegotiation of which would jeopardize secrecy required in the public interest.

In addition to the foregoing the Board would have the authority under this section to exempt from renegotiation, in its discretion, such contracts as the following: Contracts to be performed in a foreign country; contracts with public utilities whose rates are fixed by public regulatory bodies; contracts the provisions of which are otherwise adequate to prevent excessive profits; and contracts with respect to which it is not administratively feasible to determine and segregate the renegotiable profits from the profits attributable to activities not subject to renegotiation.

SECTION 107. RENEGOTIATION BOARD

Section 107 of the bill contains provisions relating to the creation, organization, and operation of the Renegotiation Board.

The Renegotiation Board is created under subsection (a) as an independent establishment in the executive branch of the Government and is to be composed of five members appointed by the President by and with the advice and consent of the Senate. Not less than three members are to be appointed from civilian life. The President is to designate one member to serve as Chairman of the Board. Each member is to receive compensation at the rate of \$12,500 per annum and is prohibited from engaging in any business, vocation, or employment other than that as a member of the Board. The Board is to have a seal which shall be judicially recognized. Subsection (b) provides that three members of the Board shall constitute a quorum.

Subsections (b) and (c) provide authority for the Board to establish offices, employ personnel, and utilize services of officers and employees of other agencies of the Government.

Subsection (d) authorizes the Board to delegate in whole or in part any function, power, or duty and to permit successive redelegations.

The Board cannot, however, delegate its power to promulgate regulations and rules.

Subsection (e) authorizes the Chairman of the Board to divide the Board into divisions, assign members thereto, and (where a division has more than one member) designate the chief thereof. In addition the Board is authorized, by regulation or otherwise, to determine the character of cases to be conducted initially (1) by the Board through an officer or officers of, or utilized by, the Board, (2) by agencies of the Government to which the Board has delegated power to conduct cases, (3) by divisions of the Board, and (4) by the Board itself. The Board is authorized to review any determination in any case not initially conducted by it either on its own motion or (in its discretion) at the request of any contractor or subcontractor aggrieved thereby. Such determination becomes the determination of the Board unless (1) the Board initiates on its own motion a review within 90 days from the date of the determination, or (2) at the request of the contractor or subcontractor made within 90 days from the date of the determination the Board initiates a review within 90 days from the date of the request. If such determination was made by an order with respect to which notice was given by registered mail (as required by sec. 105 (a)) the Board is required to give notice by registered mail to the contractor or subcontractor of its decision not to review the case. If the Board reviews the determination it is required to issue and enter an order under section 105 (a) determining the amount (if any) of excessive profits and forthwith give notice thereof by registered mail to the contractor or subcontractor. The amount of the excessive profits determined upon review may be less than, equal to, or greater than, the amount determined by the officer or officers, division of the Board, or other agency of the Government whose action is reviewed.

Subsection (f) of section 107 requires the Board to accept and perform such renegotiation powers, duties, and functions as may be delegated to it under any other law requiring or permitting renegotiation and permits the Board to redelegate, within limits specified by it, the powers, duties, or functions delegated to it. This subsection also authorizes the Secretary of Defense to delegate to the Board, in whole or in part, the powers, functions, and duties conferred upon him by any other renegotiation law.

SECTION 108. REVIEW BY THE TAX COURT

This section provides that any contractor or subcontractor aggrieved by an order of the Board determining the amount of excessive profits received or accrued by him, may, within the time limitations prescribed in the section, file a petition with the Tax Court for a redetermination thereof; that the court shall then have exclusive jurisdiction, by order, to finally determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor; and that such determination shall not be reviewed or redetermined by any court or agency. The court may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the Board. The proceeding before the Tax Court is to be a proceeding *de novo*.

In addition to certain provisions relating to administrative matters connected with the proceedings in the Tax Court the section also provides that the filing of a petition in the Tax Court shall not stay the execution of an order of the Board, and that where the United States has collected amounts, under an order of the Board, greater than the amount determined by the Court, the excess shall be refunded and interest at the rate of 6 percent paid thereon.

SECTION 109. RULES AND REGULATIONS

The Board is granted authority to make such rules, regulations, and orders as it deems necessary or appropriate to carry out this title.

SECTION 110. COMPLIANCE WITH REGULATIONS, ETC.

This section provides that no person shall be held liable for damages or penalties for any act resulting from his compliance with a rule, regulation, or order of the Board, even though the order is thereafter declared invalid.

SECTION 111. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT

This section provides that the functions exercised under this title shall be excluded from the operation of the Administrative Procedure Act, except as to the requirements of section 3 thereof. Section 3 of that act relates to publishing rules and regulations and to making information available to the public.

SECTION 112. APPROPRIATIONS

Section 112 authorizes the appropriation of funds sufficient to carry out this title. It also provides that funds made available to carry out the title may, with the approval of the Bureau of the Budget, be transferred among the agencies carrying out the title and that the funds so transferred shall remain available for such period as may be provided in the acts making the funds available.

SECTION 113. PROSECUTION OF CLAIMS AGAINST THE UNITED STATES BY FORMER PERSONNEL

This section provides that certain specified provisions of law shall not prevent any person by reason of service prior to January 1, 1954, in performance of duties required by the bill, from acting as counsel, agent, or attorney for prosecuting any claim against the United States after such person is no longer employed in a department or the Board, if the subject matter of the claim does not involve any subject matter directly connected with which such person was employed.

TITLE II—MISCELLANEOUS PROVISIONS

SECTION 201. FUNCTIONS UNDER WORLD WAR II RENEGOTIATION ACT

Subsection (a) abolishes the War Contracts Price Adjustment Board created by the Renegotiation Act in effect in World War II.

Subsection (b) transfers to the Renegotiation Board created by this bill all of the powers, functions, and duties of the War Contracts Price

Adjustment Board not specifically transferred to another agency of the Government by this title.

Subsection (c) amends the Renegotiation Act in effect during World War II by adding two sentences to the end of section (a) (4) (D) of that act. The first such sentence provides a deadline for the filing of renegotiation rebate claims arising as a result of the recomputation of the amortization deduction allowed in World War II. The second such sentence provides that a claim shall be deemed to have been filed when received by the War Contracts Price Adjustment Board or the Administrator of General Services even though it is not accompanied by a statement of the Commissioner of Internal Revenue showing the amortization deduction allowed for the renegotiated year.

Subsection (d) transfers to the Administrator of General Services all of the powers, functions, and duties of the War Contracts Price Adjustment Board relating to the payment of renegotiation rebates.

Subsection (e) requires each Secretary of a department named in the Renegotiation Act in effect during World War II to complete the elimination of excessive profits under all existing renegotiation agreements and orders resulting from renegotiations conducted initially by his department, and to complete any uncompleted administration of such agreements and orders. The subsection provides that such records as may be required for this purpose shall be retained by the departments for so long as they may be needed, but that all records of the War Contracts Price Adjustment Board, whether in the custody of the Board or in the custody of the several departments, shall become the records of the Renegotiation Board.

Subsection (f) transfers to the Administrator of General Services from the War Contracts Price Adjustment Board the responsibility for certifying for payment refunds under the Renegotiation Act in effect during World War II in the following types of claims:

1. Renegotiation rebate claims;
2. Excess inventory claims; and
3. Refunds of excessive profits resulting from redetermination of the Tax Court in lesser amounts. Interest at the rate of 4 per cent per annum is provided on such refunds.

Subsection (g) provides that existing policies, procedures, etc., of the War Contracts Price Adjustment Board, or issued under delegations of authority from it, shall continue in full force and effect unless specifically superseded.

Subsection (h) contains a saving provision to provide against the impairment of regulations or orders issued by the War Contracts Price Adjustment Board, and to protect against the lapse of litigation conducted in its name.

Subsection (i) provides that the World War II Renegotiation Act continues in full force and effect. While the work of the War Contracts Price Adjustment Board is virtually completed, there remain three principal activities which require the exercise of authority vested in it under the Renegotiation Act:

1. The payment of renegotiation rebates and other refunds;
2. The collection of moneys due under renegotiation agreements and orders; and
3. The conduct of any uncompleted renegotiations.

Subsection (j) provides for the extension of the terms "Secretary" or "Secretaries" and "Department" or "Departments" to successors in

function of these officers or offices specifically named in the Renegotiation Act.

Subsection (k) provides that section 201 shall take effect 60 days after the enactment date of this act.

SECTION 202. PERIOD OF LIMITATIONS FOR RENEGOTIATION ACT OF 1948

This section provides a statute of limitations for proceedings under the Renegotiation Act of 1948. That act does not now contain any such limitation.

SECTION 203. AMENDMENT OF SECTION 3806 OF THE INTERNAL REVENUE CODE

Section 3806 of the Internal Revenue Code provides, in general, that the amount of excessive profits to be eliminated shall be credited by the amount of Federal income and excess profits taxes paid with respect to such excessive profits. This section of the bill amends section 3806 of the code to make the appropriate references to the Renegotiation Act of 1948 and the Renegotiation Act of 1951.

SECTION 204. SEPARABILITY PROVISION

This section provides that if any provision of this act or the application of any provision to any person or circumstance is held invalid, the validity of the remainder of the act and of the application of its provisions to other persons and circumstances shall not be affected thereby.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman) :

SUBSECTION (A) (4) (D) OF THE RENEGOTIATION ACT

SEC. 403. (a) For the purposes of this section—

(1) * * *

* * * * *

(4) (A) * * *

* * * * *

(D) Notwithstanding any of the provisions of subsection (c) (4) of this section to the contrary, in the case of a renegotiation which is made prior to such recomputation, there shall be repaid by the United States (without interest) to the contractor or subcontractor after such recomputation the amount of a net renegotiation rebate computed in the following described manner. There shall first be ascertained the portion of the excessive profits determined by the renegotiation which is attributable to the fiscal year with respect to which a net renegotiation rebate is claimed by the contractor or subcontractor (hereinafter referred to as "renegotiated year"). There shall then be ascertained the amount of the gross renegotiation rebate for the renegotiated year, which amount shall be an allocable part of the additional amortization deduction which is allowed for the renegotiated year upon the recomputation made pursuant to section 124 (d) of the Internal Revenue Code in connection with the determination of the taxes for such year and which is attributable to contracts with the Departments and subcontracts, except

that the amount of the gross renegotiation rebate shall not exceed the amount of excessive profits eliminated for the renegotiated year pursuant to the renegotiation. The allocation of the additional amortization deduction attributable to contracts with the Departments and subcontracts, and the allocation of the additional amortization deduction to the renegotiated year shall be determined in accordance with regulations prescribed by the Board. There shall then be ascertained the amount of the contractor's or subcontractor's Federal tax benefit from the renegotiation for the renegotiated year. Such Federal tax benefit shall be the amount by which the taxes for the renegotiated year under chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code were decreased by reason of omitting from gross income (or by reason of the application of the provisions of section 3806 (a) of the Internal Revenue Code with respect to) that portion of the excessive profits for the renegotiated year which is equal to the amount of the gross renegotiation rebate. The amount by which the gross renegotiation rebate for the renegotiated year exceeds the amount of the contractor's or subcontractor's Federal tax benefit from the renegotiation for such year shall be the amount of the net renegotiation rebate for such year. *A net renegotiation rebate shall not be repaid unless a claim therefor has been filed with the Board on or before the date of its abolition, or unless a claim shall have been filed with the Administrator of General Services (i) on or before June 30, 1951, or (ii) within ninety days after the making of an agreement or the entry of an order under subsection (c) (1) determining the amount of excessive profits, whichever is later. A claim shall be deemed to have been filed when received by the Board or the Administrator, whether or not accompanied by a statement of the Commissioner of Internal Revenue showing the amortization deduction allowed for the renegotiated year upon the recomputation made pursuant to section 124 (d) of the Internal Revenue Code.*

SECTION 3806 (a) (1) OF THE INTERNAL REVENUE CODE

SEC. 3806. MITIGATION OF EFFECT OF RENEGOTIATION OF WAR CONTRACTS OR DISALLOWANCE OF REIMBURSEMENT.

(a) REDUCTION FOR PRIOR TAXABLE YEAR.—

(1) EXCESSIVE PROFITS ELIMINATED FOR PRIOR TAXABLE YEAR.— * * *

(A) The term "renegotiation" includes any transaction which is a renegotiation within the meaning of [section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, Seventy-seventh Congress, second session) or such section, as amended] *the Federal renegotiation act applicable to such transaction*, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

(B) The term "excessive profits" includes any amount which constitutes excessive profits within the meaning assigned to such term by [subsection (a) of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, Seventy-seventh Congress, Second Session), as amended] *the applicable Federal renegotiation act*, any part of the contract price of a contract with the United States or any agency thereof, any part of the subcontract price of a subcontract under such a contract, and any profits derived from one or more such contracts or subcontracts.

(C) The term "subcontract" includes any purchase order or agreement which is a subcontract within the meaning assigned to such term by [subsection (a) of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, Seventy-seventh Congress, Second Session), as amended] *the applicable Federal renegotiation act*.

(D) The term "Federal renegotiation act" includes section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, Seventy-seventh Congress, second session), as amended or supplemented, the Renegotiation Act of 1948, as amended or supplemented, and the Renegotiation Act of 1951, as amended or supplemented.

Please return to
Division of Legislative Reports
Office of Budget and Finance

Union Calendar No. 8

82^d CONGRESS
1st SESSION

H. R. 1724

[Report No. 7]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 19, 1951

Mr. DOUGHTON introduced the following bill; which was referred to the Committee on Ways and Means

JANUARY 20, 1951

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To provide for the renegotiation of contracts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Renegotiation Act of
4 1951".

5 **TITLE I—RENEGOTIATION OF CONTRACTS**

6 **SEC. 101. DECLARATION OF POLICY.**

7 It is hereby recognized and declared that the Congress
8 has made available for the execution of the national defense
9 program extensive funds, by appropriation and otherwise,
10 for the procurement of property, processes, and services, and
11 the construction of facilities necessary for the national de-

1 fense; that sound execution of the national defense program
2 requires the elimination of excessive profits from contracts
3 made with the United States, and from related subcontracts,
4 in the course of said program; and that the considered policy
5 of the Congress, in the interests of the national defense and
6 the general welfare of the Nation, requires that such excessive
7 profits be eliminated as provided in this title.

8 **SEC. 102. CONTRACTS SUBJECT TO RENEGOTIATION.**

9 (a) **IN GENERAL.**—The provisions of this title shall
10 be applicable (1) to all contracts with the Depart-
11 ments specifically named in section 103 (a), and
12 related subcontracts, to the extent of the amounts received
13 or accrued by a contractor or subcontractor on or after
14 the first day of January 1951, whether such contracts
15 or subcontracts were made on, before, or after such first
16 day, and (2) to all contracts with the Departments desig-
17 nated by the President under section 103 (a), and related
18 subcontracts, to the extent of the amounts received or accrued
19 by a contractor or subcontractor on or after the first day of
20 the first month beginning after the date of such designation,
21 whether such contracts or subcontracts were made on,
22 before, or after such first day; but the provisions of this
23 title shall not be applicable to receipts or accruals attribut-
24 able to performance, under contracts or subcontracts, after
25 December 31, 1953.

1 (b) RENEGOTIATION ACT OF 1948.—The Renegotia-
2 tion Act of 1948 shall not apply with respect to any receipts
3 or accruals subject to renegotiation under this title. If a
4 contractor or subcontractor, during the same fiscal year
5 in which he has receipts or accruals subject to renegotiation
6 under this title, has other receipts or accruals from con-
7 tracts or subcontracts subject to renegotiation under the
8 Renegotiation Act of 1948, the provisions of this title
9 shall, notwithstanding subsection (a), apply to such
10 other receipts or accruals if the Board and such con-
11 tractor or subcontractor agree to such application of
12 this title; and in the case of such an agreement the provisions
13 of the Renegotiation Act of 1948 shall not apply to such
14 other receipts or accruals of the fiscal year.

15 (c) SUSPENSION OF CERTAIN PROFIT LIMITATIONS.—
16 Notwithstanding any agreement to the contrary, the profit-
17 limitation provisions of the Act of March 27, 1934 (48
18 Stat. 503, 505), as amended and supplemented, shall not
19 apply to any contract or subcontract if any of the receipts
20 or accruals therefrom are subject to this title.

21 SEC. 103. DEFINITIONS.

22 For the purposes of this title—

23 (a) DEPARTMENT.—The term “Department” means
24 the Department of Defense, the Department of the Army,
25 the Department of the Navy, the Department of the Air

1 Force, the Department of Commerce, the General Services
2 Administration, the Atomic Energy Commission, and
3 such other agencies of the Government exercising functions
4 in connection with the national defense as the President shall
5 designate.

6 (b) SECRETARY.—The term “Secretary” means the
7 Secretary of Defense, the Secretary of the Army, the Secre-
8 tary of the Navy, the Secretary of the Air Force, the Sec-
9 retary of Commerce, the Administrator of General Services,
10 the Atomic Energy Commission, and the head of any other
11 agency of the Government which the President shall desig-
12 nate pursuant to subsection (a) of this section.

13 (c) BOARD.—The term “Board” means the Renegotia-
14 tion Board created by section 107 (a) of this Act.

15 (d) RENEGOTIATE AND RENEGOTIATION.—The terms
16 “renegotiate” and “renegotiation” include a determination
17 by agreement or order under this title of the amount of any
18 excessive profits.

19 (e) EXCESSIVE PROFITS.—The term “excessive profits”
20 means the portion of the profits derived from contracts with
21 the Departments and subcontracts which is determined in
22 accordance with this title to be excessive. In determining
23 excessive profits there shall be taken into consideration the
24 following factors:

25 (1) Efficiency of contractor, with particular regard

1 to attainment of quantity and quality production, reduc-
2 tion of costs, and economy in the use of materials, facili-
3 ties, and manpower;

4 (2) Reasonableness of costs and profits, with par-
5 ticular regard to volume of production, normal earnings,
6 and comparison of war and peacetime products;

7 (3) Reasonableness of return on net worth, with
8 particular regard to the amount and source of public
9 and private capital employed;

10 (4) Extent of risk assumed, including the risk inci-
11 dent to reasonable pricing policies;

12 (5) Nature and extent of contribution to the defense
13 effort, including inventive and developmental contribution
14 and cooperation with the Government and other contrac-
15 tors in supplying technical assistance;

16 (6) Character of business, including source and
17 nature of materials, complexity of manufacturing tech-
18 nique, character and extent of subcontracting, and rate
19 of turn-over;

20 (7) Such other factors the consideration of which
21 the public interest and fair and equitable dealing may
22 require, which factors shall be published in the regula-
23 tions of the Board from time to time as adopted.

24 (f) PROFITS DERIVED FROM CONTRACTS WITH THE
25 DEPARTMENTS AND SUBCONTRACTS.—The term “profits de-

1 rived from contracts with the Departments and subcon-
2 tracts" means the excess of the amount received or accrued
3 under such contracts and subcontracts over the costs paid
4 or incurred with respect thereto and determined to be
5 allocable thereto. All items estimated to be allowable as
6 deductions and exclusions under chapter 1 of the Internal
7 Revenue Code (excluding taxes measured by income) shall,
8 to the extent allocable to such contracts and subcontracts,
9 be allowed as items of cost, except that no amount shall be
10 allowed as an item of cost by reason of the application
11 of a carry-over or carry-back. Such costs shall be deter-
12 mined in accordance with the method of cost accounting
13 regularly employed by the contractor or subcontractor in
14 keeping his books, but, if no such method of cost accounting
15 has been employed, or if the method so employed does not,
16 in the opinion of the Board, or, upon redetermination, in
17 the opinion of The Tax Court of the United States, properly
18 reflect such costs, such costs shall be determined in accord-
19 ance with such method as in the opinion of the Board, or,
20 upon redetermination, in the opinion of The Tax Court of
21 the United States, does properly reflect such costs. Irre-
22 spective of the method employed or prescribed for determin-
23 ing such costs, no item of cost shall be charged to contracts
24 with the Departments or subcontracts or used in any manner

1 for the purpose of determining such costs, to the extent that,
2 in the opinion of the Board, or, upon redetermination, in
3 the opinion of The Tax Court of the United States, such
4 item is unreasonable or not properly chargeable to such con-
5 tracts or subcontracts. In determining the amount of exces-
6 sive profits to be eliminated, proper adjustment shall be
7 made on account of the taxes measured by income, other
8 than Federal taxes, which are attributable to the portion of
9 the profits which are not excessive.

10 (g) SUBCONTRACT.—The term “subcontract” means—

11 (1) any purchase order or agreement (including
12 purchase orders or agreements antedating the related
13 prime contract or higher tier subcontract) to perform
14 all or any part of the work, or to make or furnish any
15 materials, required for the performance of any other
16 contract or subcontract;

17 (2) any contract or arrangement covering the right
18 to use any patented or secret method, formula, or device
19 for the performance of a contract or subcontract; and

20 (3) any contract or arrangement (other than a con-
21 tract or arrangement between two contracting parties,
22 one of whom is found by the Board to be a bona fide
23 executive officer, partner, or full-time employee of the
24 other contracting party) under which—

1 (A) any amount payable is contingent upon
 2 the procurement of a contract or contracts with a
 3 Department or of a subcontract or subcontracts; or

4 (B) any amount payable is determined with
 5 reference to the amount of a contract or contracts
 6 with a Department or of a subcontract or subcon-
 7 tracts; or

8 (C) any part of the services performed or to
 9 be performed consists of the soliciting, attempting to
 10 procure, or procuring a contract or contracts with a
 11 Department or a subcontract or subcontracts.

12 Nothing in this subsection shall be construed (i) to affect in
 13 any way the validity or construction of provisions in any
 14 contract with a Department or any subcontract, heretofore
 15 at any time or hereafter made, prohibiting the payment of
 16 contingent fees or commissions; or (ii) to restrict in any
 17 way the authority of the Board to determine the nature or
 18 amount of selling expense under subcontracts as defined in
 19 this subsection, as a proper element of the contract price
 20 or as a reimbursable item of cost, under a contract with a
 21 Department or a subcontract.

22 (h) FISCAL YEAR.—The term “fiscal year” means,
 23 except in the case of a partnership as defined in section
 24 3797 (a) (2) of the Internal Revenue Code, the taxable

1 year of the contractor or subcontractor under chapter 1 of
2 such code. In the case of a partnership as so defined the
3 term "fiscal year" means such period as the Board by regu-
4 lations may prescribe.

5 (i) RECEIVED OR ACCRUED AND PAID OR INCURRED.—
6 The terms "received or accrued" and "paid or incurred"
7 shall be construed according to the method of accounting
8 employed by the contractor or subcontractor in keeping his
9 books, but if no such method of accounting has been em-
10 ployed, or if the method so employed does not, in the
11 opinion of the Board, or, upon redetermination, in the
12 opinion of The Tax Court of the United States, properly
13 reflect his receipts or accruals or payments or obligations,
14 such receipts or accruals or such payments or obligations
15 shall be determined in accordance with such method as in
16 the opinion of the Board, or, upon redetermination, in the
17 opinion of The Tax Court of the United States, does properly
18 reflect such receipts or accruals or such payments or
19 obligations.

20 (j) PERSON.—The term "person" shall include an indi-
21 vidual, firm, corporation, association, partnership, and any
22 organized group of persons whether or not incorporated.

23 (k) MATERIALS.—The term "materials" shall include

1 raw materials, articles, commodities, parts, assemblies, prod-
2 ucts, machinery, equipment, supplies, components, technical
3 data, processes, and other personal property.

4 (1) AGENCY OF THE GOVERNMENT.—The term “agency
5 of the Government” means any part of the executive branch
6 of the Government or any independent establishment of
7 the Government or part thereof, including any department
8 (whether or not a Department as defined in subsection (a)
9 of this section), any corporation wholly or partly owned by
10 the United States which is an instrumentality of the United
11 States, or any board, bureau, division, service, office, officer,
12 employee, authority, administration, or other establishment
13 of the Government which is not a part of the legislative or
14 judicial branches.

15 **SEC. 104. RENEGOTIATION CLAUSE IN CONTRACTS.**

16 Subject to section 106 (a), the Secretary of each
17 Department specifically named in section 103 (a) shall
18 insert in each contract made by such Department thirty
19 days or more after the date of the enactment of this Act,
20 and the Secretary of each Department designated by the
21 President under section 103 (a) shall insert in each contract
22 made by such Department thirty days or more after the date
23 of such designation, a provision under which the contractor
24 agrees—

1 (1) to the elimination of excessive profits through
2 renegotiation;

3 (2) that there may be withheld by the United
4 States from amounts otherwise due the contractor, or
5 that he will repay to the United States, if paid to him,
6 any excessive profits;

7 (3) that he will insert in each subcontract described
8 in section 103 (g) a provision under which the subcon-
9 tractor agrees—

10 (A) to the elimination of excessive profits
11 through renegotiation;

12 (B) that there may be withheld by the con-
13 tractor for the United States from amounts other-
14 wise due to the subcontractor, or that the subcon-
15 tractor will repay to the United States, if paid to
16 him, any excessive profits;

17 (C) that the contractor shall be relieved of all
18 liability to the subcontractor on account of any
19 amount so withheld, or so repaid by the subcon-
20 tractor to the United States;

21 (D) that he will insert in each subcontract
22 described in section 103 (g) provisions correspond-
23 ing to those of subparagraphs (A), (B), and (C),
24 and to those of this subparagraph;

1 (4) that there may be withheld by the United
2 States from amounts otherwise due the contractor, or
3 that he will repay to the United States, as the Secretary
4 may direct, any amounts which under section 105 (b)
5 (1) (C) the contractor is directed to withhold from a
6 subcontractor and which are actually unpaid at the time
7 the contractor receives such direction.

8 The obligations assumed by the contractor or subcontractor
9 under paragraph (1) or (3) (A), as the case may be,
10 agreeing to the elimination of excessive profits through re-
11 negotiation shall be binding on him only if the contract or
12 subcontract, as the case may be, is subject to this title. A
13 provision inserted in a contract or subcontract, which recites
14 in substance that the contract or subcontract shall be deemed
15 to contain all the provisions required by this section shall be
16 sufficient compliance with this section. Whether or not the
17 provisions specified in this section are inserted in a contract
18 with a Department or subcontract, to which this title is
19 applicable, such contract or subcontract, as the case may be,
20 shall be considered as having been made subject to this title
21 in the same manner and to the same extent as if such pro-
22 visions had been inserted.

23 **SEC. 105. RENEGOTIATION PROCEEDINGS.**

24 (a) **PROCEEDINGS BEFORE THE BOARD.**—Renegotiation
25 proceedings shall be commenced by the mailing of notice to

1 that effect, in such form as may be prescribed by regulation,
2 by registered mail to the contractor or subcontractor. The
3 Board shall endeavor to make an agreement with the con-
4 tractor or subcontractor with respect to the elimination of
5 excessive profits received or accrued, and with respect to
6 such other matters relating thereto as the Board deems ad-
7 visable. Any such agreement, if made, may, with the con-
8 sent of the contractor or subcontractor, also include provi-
9 sions with respect to the elimination of excessive profits
10 likely to be received or accrued. If the Board does not make
11 an agreement with respect to the elimination of excessive
12 profits received or accrued, it shall issue and enter an order
13 determining the amount, if any, of such excessive profits,
14 and forthwith give notice thereof by registered mail to the
15 contractor or subcontractor. In the absence of the filing of
16 a petition with The Tax Court of the United States under
17 the provisions of and within the time limit prescribed in
18 section 108, such order shall be final and conclusive and shall
19 not be subject to review or redetermination by any court or
20 other agency. The Board shall exercise its powers with
21 respect to the aggregate of the amounts received or accrued
22 during the fiscal year (or such other period as may be fixed
23 by mutual agreement) by a contractor or subcontractor
24 under contracts with the Departments and subcontracts, and
25 not separately with respect to amounts received or accrued

1 under separate contracts with the Departments or subcon-
2 tracts, except that the Board may exercise such powers
3 separately with respect to amounts received or accrued by
4 the contractor or subcontractor under any one or more sepa-
5 rate contracts with the Departments or subcontracts at the
6 request of the contractor or subcontractor. By agreement
7 with any contractor or subcontractor, and pursuant to regu-
8 lations promulgated by it, the Board may in its discretion
9 conduct renegotiation on a consolidated basis in order prop-
10 erly to reflect excessive profits of two or more related con-
11 tractors or subcontractors. Whenever the Board makes a
12 determination with respect to the amount of excessive profits,
13 and such determination is made by order, it shall, at the
14 request of the contractor or subcontractor, as the case may
15 be, prepare and furnish such contractor or subcontractor with
16 a statement of such determination, of the facts used as a
17 basis therefor, and of its reasons for such determination.
18 Such statement shall not be used in The Tax Court of the
19 United States as proof of the facts or conclusions stated
20 therein.

21 (b) METHODS OF ELIMINATING EXCESSIVE PROFITS.—

22 (1) IN GENERAL.—Upon the making of an agree-
23 ment, or the entry of an order, under subsection (a) of
24 this section by the Board, or the entry of an order
25 under section 108 by The Tax Court of the United

1 States, determining excessive profits, the Board shall
2 forthwith authorize and direct the Secretaries or any of
3 them to eliminate such excessive profits—

4 (A) by reductions in the amounts otherwise
5 payable to the contractor under contracts with the
6 Departments, or by other revision of their terms;

7 (B) by withholding from amounts otherwise
8 due to the contractor any amount of such excessive
9 profits;

10 (C) by directing any person having a contract
11 with any agency of the Government, or any sub-
12 contractor thereunder, to withhold for the account
13 of the United States from any amounts otherwise due
14 from such person or such subcontractor to a con-
15 tractor, or subcontractor, having excessive profits to
16 be eliminated, and every such person or sub-
17 contractor receiving such direction shall withhold
18 and pay over to the United States the amounts
19 so required to be withheld;

20 (D) by recovery from the contractor or sub-
21 contractor, or from any person or subcontractor
22 directed under subparagraph (C) to withhold for
23 the account of the United States, through payment,
24 repayment, credit, or suit any amount of such
25 excessive profits realized by the contractor or sub-

1 contractor or directed under subparagraph (C) to
2 be withheld for the account of the United States; or
3 (E) by any combination of these methods, as
4 is deemed desirable.

5 (2) INTEREST.—Interest at the rate of 6 per
6 centum per annum shall accrue and be paid on the
7 amount of such excessive profits from the date fixed for
8 repayment by the order of the Board or by the agree-
9 ment with the contractor or subcontractor to the date of
10 repayment, and on amounts required to be withheld by
11 any person or subcontractor for the account of the
12 United States pursuant to paragraph (1) (C), from
13 the date payment is demanded by the Secretaries or
14 any of them to the date of payment. When The Tax
15 Court of the United States, under section 108, redeter-
16 mines the amount of excessive profits received or accrued
17 by a contractor or subcontractor, interest at the rate of
18 6 per centum per annum shall accrue and be paid by
19 such contractor or subcontractor as follows:

20 (A) When the amount of excessive profits
21 determined by the Tax Court is greater than the
22 amount determined by the Board, interest shall
23 accrue and be paid on the amount determined by the
24 Board from the date originally fixed by the Board for
25 its repayment to the date of repayment and, in

1 addition thereto, interest shall accrue and be paid
2 on the additional amount determined by the Tax
3 Court from the date of its order determining such
4 excessive profits to the date of repayment.

5 (B) When the amount of excessive profits
6 determined by the Tax Court is equal to the amount
7 determined by the Board, interest shall accrue and
8 be paid on such amount from the date originally fixed
9 by the Board for its repayment to the date of
10 repayment.

11 (C) When the amount of excessive profits
12 determined by the Tax Court is less than the amount
13 determined by the Board, interest shall accrue and be
14 paid on such lesser amount from the date originally
15 fixed for repayment by the Board to the date of
16 repayment.

17 (3) SUITS FOR RECOVERY.—Actions on behalf of
18 the United States may be brought in the appropriate
19 courts of the United States to recover, (A) from the
20 contractor or subcontractor, any amount of such ex-
21 cessive profits and accrued interest not withheld or
22 eliminated by some other method under this subsection,
23 and (B) from any person or subcontractor who has been
24 directed under paragraph (1) (C) of this subsection

1 to withhold for the account of the United States, the
2 amounts required to be withheld under such paragraph,
3 together with accrued interest thereon.

4 (4) SURETIES.—The surety under a contract or
5 subcontract shall not be liable for the repayment of any
6 excessive profits thereon.

7 (5) INDEMNIFICATION.—Each person is hereby
8 indemnified by the United States against all claims on
9 account of amounts withheld by such person pursuant
10 to this subsection from a contractor or subcontractor and
11 paid over to the United States.

12 (6) TREATMENT OF RECOVERIES.—All money re-
13 covered in respect to amounts paid to a contractor from
14 appropriations from the Treasury by way of repayment
15 or suit under this subsection shall be covered into the
16 Treasury as miscellaneous receipts. Upon the withhold-
17 ing of any amount of excessive profits or the crediting of
18 any amount of excessive profits against amounts other-
19 wise due a contractor, the Secretary shall certify the
20 amount thereof to the Treasury and the appropriations
21 of his Department shall be reduced by an amount equal
22 to the amount so withheld or credited. The amount of
23 such reductions shall be transferred to the surplus fund
24 of the Treasury. All money recovered in respect of
25 amounts paid to the contractor from corporate or other

1 revolving funds (other than appropriations from the
2 Treasury) by way of repayment, withholding, crediting,
3 or suit under this section shall be restored to such funds.
4 The Board is authorized to make regulations giving effect
5 to the intent of this provision in respect of money recovered
6 representing subcontract excessive profits not readily
7 identifiable as to the public funds ultimately reflecting
8 charges therefor.

9 (7) CREDIT FOR TAXES PAID.—In eliminating excessive
10 profits, the Secretary shall allow the contractor
11 or subcontractor credit for Federal income and excess
12 profits taxes as provided in section 3806 of the Internal
13 Revenue Code.

14 (c) PERIODS OF LIMITATIONS.—No proceeding to determine
15 the amount of excessive profits for any fiscal year
16 shall be commenced more than one year after the statement
17 required under subsection (e) (1) of this section is
18 filed with the Board with respect to such year, and, if such
19 proceeding is not commenced prior to the expiration of
20 one year following the date upon which such statement is so
21 filed, all liabilities of the contractor or subcontractor for
22 excessive profits received or accrued during such fiscal year
23 shall thereupon be discharged. If an agreement or order
24 determining the amount of excessive profits is not made
25 within two years following the commencement of the re-

1 negotiation proceeding, then upon the expiration of such
2 two years all liabilities of the contractor or subcontractor
3 for excessive profits with respect to which such proceeding
4 was commenced shall thereupon be discharged, except that
5 (1) if an order is made within such two years pursuant
6 to a delegation of authority under subsection (d) of section
7 107, such two-year limitation shall not apply to review of
8 such order by the Board, and (2) such two-year period
9 may be extended by mutual agreement.

10 (d) AGREEMENTS TO ELIMINATE EXCESSIVE PROF-
11 ITS.—For the purposes of this title the Board may make final
12 or other agreements with a contractor or subcontractor for
13 the elimination of excessive profits and for the discharge of
14 any liability for excessive profits under this title. Such agree-
15 ments may contain such terms and conditions as the Board
16 deems advisable. Any such agreement shall be conclusive
17 according to its terms; and, except upon a showing of fraud
18 or malfeasance or a willful misrepresentation of a material
19 fact, (1) such agreement shall not for the purposes of this
20 title be reopened as to the matters agreed upon, and shall not
21 be modified by any officer, employee, or agent of the United
22 States, and (2) such agreement and any determination made
23 in accordance therewith shall not be annulled, modified, set
24 aside, or disregarded in any suit, action, or proceeding. Not-
25 withstanding any other provision of this title, however, the

1 Board shall have the power, pursuant to regulations promul-
2 gated by it, to modify any agreement or order for the purpose
3 of extending the time for payment of sums due under such
4 agreement or order.

5 (e) INFORMATION AVAILABLE TO BOARD.—

6 (1) FURNISHING OF FINANCIAL STATEMENTS,
7 ETC.—Every person who holds contracts or subcontracts,
8 to which the provisions of this title are applicable, shall,
9 in such form and detail as the Board may by regulations
10 prescribe, file with the Board, on or before the first day
11 of the fourth calendar month following the close of his
12 fiscal year, a financial statement setting forth such
13 information as the Board may by regulations prescribe
14 as necessary to carry out this title. In addition to the
15 statement required under the preceding sentence, every
16 such person shall, at such time or times and in such form
17 and detail as the Board may by regulations prescribe,
18 furnish the Board any information, records, or data which
19 are determined by the Board to be necessary to carry out
20 this title. Any person who willfully fails or refuses to
21 furnish any statement, information, records, or data re-
22 quired of him under this subsection, or who knowingly
23 furnishes any such statement, information, records, or
24 data containing information which is false or misleading

1 in any material respect, shall, upon conviction thereof, be
2 punished by a fine of not more than \$10,000 or impris-
3 onment for not more than one year, or both.

4 (2) AUDIT OF BOOKS AND RECORDS.—For the pur-
5 pose of this title, the Board shall have the right to audit
6 the books and records of any contractor or subcontractor
7 subject to this title. In the interest of economy and
8 the avoidance of duplication of inspection and audit, the
9 services of the Bureau of Internal Revenue shall, upon
10 request of the Board and the approval of the Secretary
11 of the Treasury, be made available to the extent deter-
12 mined by the Secretary of the Treasury for the purpose
13 of making examinations and audits under this title.

14 (f) MINIMUM AMOUNTS SUBJECT TO RENEGOTIA-
15 TION.—

16 (1) IN GENERAL.—If the aggregate of the amounts
17 received or accrued during a fiscal year (and on or after
18 the applicable effective date specified in section 102
19 (a)) by a contractor or subcontractor, and all persons
20 under control of or controlling or under common con-
21 trol with the contractor or subcontractor, under contracts
22 with the Departments and subcontracts described in
23 section 103 (g) (1) and (2), is not more than
24 \$100,000, the receipts or accruals from such contracts
25 and subcontracts shall not, for such fiscal year, be re-

1 negotiated under this title. If the aggregate of such
2 amounts received or accrued during the fiscal year under
3 such contracts and subcontracts is more than \$100,000,
4 no determination of excessive profits to be eliminated
5 for such year with respect to such contracts and subcon-
6 tracts shall be in an amount greater than the amount
7 by which such aggregate exceeds \$100,000.

8 (2) SUBCONTRACTS DESCRIBED IN SECTION 103

9 (G) (3).—If the aggregate of the amounts received or
10 accrued during a fiscal year (and on or after the ap-
11 plicable effective date specified in section 102 (a)) by
12 a subcontractor, and all persons under control of or con-
13 trolling or under common control with the subcontractor,
14 under subcontracts described in section 103 (g) (3)
15 is not more than \$25,000, the receipts or accruals from
16 such subcontracts shall not, for such fiscal year, be
17 renegotiated under this title. If the aggregate of such
18 amounts received or accrued during the fiscal year under
19 such subcontracts is more than \$25,000, no determina-
20 tion of excessive profits to be eliminated for such year
21 with respect to such subcontracts shall be in an amount
22 greater than the amount by which such aggregate exceeds
23 \$25,000.

24 (3) COMPUTATION.—In computing the aggregate

1 of the amounts received or accrued during any fiscal year
2 for the purposes of paragraphs (1) and (2) of this
3 subsection, such computation shall be made without
4 elimination of intercompany sales. If the fiscal year is
5 a fractional part of twelve months, the \$100,000 amount
6 and the \$25,000 amount shall be reduced to the same
7 fractional part thereof for the purposes of paragraphs
8 (1) and (2).

9 SEC. 106. EXEMPTIONS.

10 (a) MANDATORY EXEMPTIONS.—The provisions of this
11 title shall not apply to—

12 (1) any contract by a Department with any Terri-
13 tory, possession, or State, or any agency or political sub-
14 division thereof, or with any foreign government or any
15 agency thereof; or

16 (2) any contract or subcontract for an agricultural
17 commodity in its raw or natural state, or if the com-
18 modity is not customarily sold or has not an established
19 market in its raw or natural state, in the first form or
20 state, beyond the raw or natural state, in which it is
21 customarily sold or in which it has an established mar-
22 ket, but only if such contract or subcontract is with the
23 producer of such agricultural commodity. The term
24 “agricultural commodity” as used herein shall include
25 but shall not be limited to—

(A) commodities resulting from the cultivation of the soil such as grains of all kinds, fruits, nuts, vegetables, hay, straw, cotton, tobacco, sugarcane, and sugar beets;

(B) natural resins, saps, and gums of trees;

(C) animals, such as cattle, hogs, poultry, and sheep, fish and other marine life, and the produce of live animals, such as wool, eggs, milk and cream; or

(3) any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, which has not been processed, refined, or treated beyond the ordinary treatment processes normally applied by producers in order to obtain the first commercially marketable product, but only if such contract or subcontract is with the owner or operator of the mine, well, or deposit from which such product is produced. The term "ordinary treatment processes" means, in the case of the product of a mine, well, or deposit with respect to which an allowance for percentage depletion is provided by section 114 (b) (3) or (4) of the Internal Revenue Code, those processes which are taken into account under such section in computing gross income from the property, and in the case of any other product such term means such similar processes as may

1 be prescribed under regulations promulgated by the
2 Board; or

3 (4) any contract or subcontract for timber which
4 has not been processed beyond the form of logs, but only
5 if such contract or subcontract is with the owner of the
6 timber property or with the producer of the logs; or

7 (5) any subcontract directly or indirectly under
8 a contract or subcontract to which this title does not
9 apply by reason of this subsection.

10 (b) COST ALLOWANCE.—In the case of a contractor
11 or subcontractor who produces an agricultural product and
12 processes, refines, or treats such a product beyond the first
13 form or state provided in paragraph (2) of subsection (a),
14 or who produces the product of a mine, oil or gas well,
15 or other mineral or natural deposit, or timber, and
16 processes, refines, or treats such a product beyond the first
17 commercially marketable state provided in paragraph
18 (3) of subsection (a) or, in the case of timber,
19 beyond the form of logs, the Board shall prescribe such
20 regulations as may be necessary to give the contractor
21 or subcontractor a cost allowance substantially equiva-
22 lent to the amount which would have been realized by such
23 contractor or subcontractor if he had sold the product in the
24 form or state provided in paragraph (2) or (3) of subsec-
25 tion (a), or, in the case of timber, in the form of logs.

1 (c) PERMISSIVE EXEMPTIONS.—The Board is au-
2 thorized, in its discretion, to exempt from some or all of the
3 provisions of this title—

4 (1) any contract or subcontract to be performed
5 outside of the territorial limits of the continental United
6 States or in Alaska;

7 (2) any contracts or subcontracts under which,
8 in the opinion of the Board, the profits can be deter-
9 mined with reasonable certainty when the contract
10 price is established, such as certain classes of (A) agree-
11 ments for personal services or for the purchase of real
12 property, perishable goods, or commodities the mini-
13 mum price for the sale of which has been fixed by a
14 public regulatory body, (B) leases and license agree-
15 ments, and (C) agreements where the period of per-
16 formance under such contract or subcontract will not
17 be in excess of thirty days;

18 (3) any contract or subcontract or performance
19 thereunder during a specified period or periods if, in
20 the opinion of the Board, the provisions of the contract
21 are otherwise adequate to prevent excessive profits;

22 (4) any contract or subcontract the renegotia-
23 tion of which would jeopardize secrecy required in the
24 public interest;

25 (5) any subcontract or group of subcontracts

1 not otherwise exempt from the provisions of this sec-
2 tion, if, in the opinion of the Board, it is not admin-
3 istratively feasible in the case of such subcontract or
4 in the case of such group of subcontracts to determine
5 and segregate the profits attributable to such subcon-
6 tract or group of subcontracts from the profits at-
7 tributable to activities not subject to renegotiation.

8 The Board may so exempt contracts and subcontracts both
9 individually and by general classes or types.

10 **SEC. 107. RENEGOTIATION BOARD.**

11 (a) **CREATION OF BOARD.**—There is hereby created, as
12 an independent establishment in the executive branch of
13 the Government, a Renegotiation Board to be composed
14 of five members appointed by the President, by and with
15 the advice and consent of the Senate. Not less than three
16 members of the Board shall be appointed from civilian life.
17 The President shall designate one member to serve as chair-
18 man of the Board. Each member shall receive compensation
19 at the rate of \$12,500 per annum. No member shall
20 engage in any business, vocation, or employment other than
21 that as a member of the Board. The Board shall have a
22 seal which shall be judicially recognized.

23 (b) **PLACES OF MEETINGS AND QUORUM.**—The prin-
24 cipal office of the Board shall be at such place as may be
25 determined from time to time by the Board, but it or any

1 division thereof may meet and exercise its powers at any
2 other place. The Board may establish such number of offices
3 as it deems necessary to expedite the work of the Board.
4 Three members of the Board shall constitute a quorum, and
5 any power, function, or duty of the Board may be exercised
6 or performed by a majority of the members present if the
7 members present constitute at least a quorum.

8 (c) PERSONNEL.—The Board is authorized, subject to
9 the civil service laws and the Classification Act of 1949,
10 to employ and fix the compensation of such officers and em-
11 ployees as it deems necessary to assist it in carrying out its
12 duties under this title. The Board may, with the consent
13 of the head of the agency of the Government concerned,
14 utilize the services of any officers or employees of the United
15 States, and reimburse such agency for the services so utilized.
16 Officers or employees whose services are so utilized shall not
17 receive additional compensation for such services, but shall
18 be allowed and paid necessary travel expenses and a per
19 diem in lieu of subsistence in accordance with the Standard-
20 ized Government Travel Regulations while away from their
21 homes or official station on duties of the Board.

22 (d) DELEGATION OF POWERS.—The Board may dele-
23 gate in whole or in part any function, power, or duty (other
24 than its power to promulgate regulations and rules) to any
25 agency of the Government, including any such agency estab-

1 lished by the Board, and may authorize the successive re-
2 delegation, within limits specified by it, of any such func-
3 tion, power, or duty to any agency of the Government,
4 including any such agency established by the Board.

5 (e) ORGANIZATION AND OPERATION OF BOARD.—The
6 Chairman of the Board may from time to time divide the
7 Board into divisions of one or more members, assign the
8 members of the Board thereto, and in case of a division
9 of more than one member, designate the chief thereof.
10 The Board may also, by regulations or otherwise, determine
11 the character of cases to be conducted initially by the Board
12 through an officer or officers of, or utilized by, the Board,
13 the character of cases to be conducted initially by the various
14 agencies of the Government authorized to exercise powers of
15 the Board pursuant to subsection (d) of this section, the
16 character of cases to be conducted initially by the various
17 divisions of the Board, and the character of cases to be con-
18 ducted initially by the Board itself. The Board may review
19 any determination in any case not initially conducted by it,
20 on its own motion or, in its discretion, at the request of
21 any contractor or subcontractor aggrieved thereby. Unless
22 the Board upon its own motion initiates a review of such
23 determination within ninety days from the date of such
24 determination, or at the request of the contractor or sub-
25 contractor made within ninety days from the date of such

1 determination initiates a review of such determination within
2 ninety days from the date of such request, such determination
3 shall be deemed the determination of the Board. If such
4 determination was made by an order with respect to which
5 notice thereof was given by registered mail pursuant to
6 section 105 (a), the Board shall give notice by registered
7 mail to the contractor or subcontractor of its decision not
8 to review the case. If the Board reviews any determination
9 in any case not initially conducted by it, it shall issue and
10 enter an order under section 105 (a) determining the
11 amount, if any, of excessive profits, and forthwith give notice
12 thereof by registered mail to the contractor or subcontractor.
13 The amount of excessive profits so determined upon review
14 may be less than, equal to, or greater than, that determined
15 by the agency of the Government whose action is so
16 reviewed.

17 (f) DELEGATION OF RENEGOTIATION FUNCTIONS TO
18 BOARD.—The Board is hereby authorized and directed to
19 accept and perform such renegotiation powers, duties, and
20 functions as may be delegated to it under any other law
21 requiring or permitting renegotiation, and the Board is
22 further authorized to redelegate any such power, duty, or
23 function to any agency of the Government and to authorize
24 successive redelegations thereof, within limits specified by
25 the Board. Notwithstanding any other provision of law, the

1 Secretary of Defense is hereby authorized to delegate to the
2 Board, in whole or in part, the powers, functions, and duties
3 conferred upon him by any other renegotiation law.

4 **SEC. 108. REVIEW BY THE TAX COURT.**

5 Any contractor or subcontractor aggrieved by an order
6 of the Board determining the amount of excessive profits
7 received or accrued by such contractor or subcontractor
8 may—

9 (a) if the case was conducted initially by the Board
10 itself—within ninety days (not counting Sunday or a
11 legal holiday in the District of Columbia as the last
12 day) after the mailing under section 105 (a) of the
13 notice of such order, or

14 (b) if the case was not conducted initially by the
15 Board itself—within ninety days (not counting Sunday
16 or a legal holiday in the District of Columbia as the
17 last day) after the mailing under section 107 (e) of
18 the notice of the decision of the Board not to review
19 the case or the notice of the order of the Board determin-
20 ing the amount of excessive profits,

21 file a petition with The Tax Court of the United States
22 for a redetermination thereof. Upon such filing such court
23 shall have exclusive jurisdiction, by order, to finally deter-
24 mine the amount, if any, of such excessive profits received or
25 accrued by the contractor or subcontractor, and such de-

1 termination shall not be reviewed or redetermined by any
2 court or agency. The court may determine as the amount of
3 excessive profits an amount either less than, equal to, or
4 greater than that determined by the Board. A proceeding
5 before the Tax Court to finally determine the amount, if
6 any, of excessive profits shall not be treated as a proceeding
7 to review the determination of the Board, but shall be
8 treated as a proceeding de novo. For the purposes of this
9 section the court shall have the same powers and duties,
10 insofar as applicable in respect of the contractor, the sub-
11 contractor, the Board, and the Secretary, and in respect of
12 the attendance of witnesses and the production of papers,
13 notice of hearings, hearings before divisions, review by the
14 Tax Court of decisions of divisions, stenographic reporting,
15 and reports of proceedings, as such court has under sections
16 1110, 1111, 1113, 1114, 1115 (a), 1116, 1117 (a), 1118,
17 1120, and 1121 of the Internal Revenue Code in the case of
18 a proceeding to redetermine a deficiency. In the case of any
19 witness for the Board, the fees and mileage, and the expenses
20 of taking any deposition shall be paid out of appropriations
21 of the Board available for that purpose, and in the case of
22 any other witnesses shall be paid, subject to rules prescribed
23 by the court, by the party at whose instance the witness
24 appears or the deposition is taken. The filing of a petition
25 under this section shall not operate to stay the execution of

1 the order of the Board under subsection (b) of section 105.
2 Any amount collected by the United States under an order
3 of the Board in excess of the amount found to be due under a
4 determination of excessive profits by the Tax Court shall be
5 refunded to the contractor or subcontractor with interest
6 thereon at the rate of 6 per centum per annum from the date
7 of collection by the United States to the date of refund.

8 **SEC. 109. RULES AND REGULATIONS.**

9 The Board may make such rules, regulations, and
10 orders as it deems necessary or appropriate to carry out the
11 provisions of this title.

12 **SEC. 110. COMPLIANCE WITH REGULATIONS, ETC.**

13 No person shall be held liable for damages or
14 penalties for any act or failure to act resulting directly or
15 indirectly from his compliance with a rule, regulation, or
16 order issued pursuant to this title, notwithstanding that any
17 such rule, regulation, or order shall thereafter be declared by
18 judicial or other competent authority to be invalid.

19 **SEC. 111. APPLICATION OF ADMINISTRATIVE PROCEDURE**
20 **ACT.**

21 The functions exercised under this title shall be ex-
22 cluded from the operation of the Administrative Procedure
23 Act (60 Stat. 237) except as to the requirements of section
24 3 thereof.

1 SEC. 112. APPROPRIATIONS.

2 There are hereby authorized to be appropriated such
3 sums as may be necessary and appropriate for the carrying
4 out of the provisions and purposes of this title. Funds
5 made available for the purposes of this title may be allocated
6 or transferred for any of the purposes of this title, with the
7 approval of the Bureau of the Budget to any agency of the
8 Government designated to assist in carrying out this title.
9 Funds so allocated or transferred shall remain available for
10 such period as may be specified in the Acts making such
11 funds available.

12 SEC. 113. PROSECUTION OF CLAIMS AGAINST UNITED
13 STATES BY FORMER PERSONNEL.

14 Nothing in title 18, United States Code, sections 281
15 and 283, or in section 190 of the Revised Statutes (U. S. C.,
16 title 5, sec. 99) shall be deemed to prevent any person by
17 reason of service prior to January 1, 1954, in performance
18 of duties or functions required by this Act, from acting as
19 counsel, agent, or attorney for prosecuting any claim against
20 the United States: *Provided*, That such person shall not pros-
21 ecute any claim against the United States (1) involving any
22 subject matter directly connected with which such person
23 was so employed, or (2) during the period such person is
24 engaged in employment in a department or the Board.

1 **TITLE II—MISCELLANEOUS PROVISIONS**

2 **SEC. 201. FUNCTIONS UNDER WORLD WAR II RENEGOTIA-**
3 **TION ACT.**

4 (a) **ABOLITION OF WAR CONTRACTS PRICE ADJUST-**
5 **MENT BOARD.**—The War Contracts Price Adjustment Board,
6 created by the Renegotiation Act, is hereby abolished.

7 (b) **TRANSFER OF FUNCTIONS IN GENERAL.**—All
8 powers, functions, and duties conferred upon the War Con-
9 tracts Price Adjustment Board by the Renegotiation Act
10 and not otherwise specifically dealt with in this section are
11 transferred to the Renegotiation Board.

12 (c) **AMENDMENT OF THE RENEGOTIATION ACT.**—Sub-
13 section (a) (4) (D) of the Renegotiation Act is amended
14 by inserting at the end thereof the following: “A net rene-
15 gotiation rebate shall not be repaid unless a claim there-
16 for has been filed with the Board on or before the date
17 of its abolition, or unless a claim shall have been
18 filed with the Administrator of General Services (i) on
19 or before June 30, 1951, or (ii) within ninety days
20 after the making of an agreement or the entry of an order
21 under subsection (c) (1) determining the amount of exces-
22 sive profits, whichever is later. A claim shall be deemed to
23 have been filed when received by the Board or the Adminis-
24 trator, whether or not accompanied by a statement of the

1 Commissioner of Internal Revenue showing the amortiza-
2 tion deduction allowed for the renegotiated year upon the re-
3 computation made pursuant to section 124 (d) of the In-
4 ternal Revenue Code.”

5 (d) TRANSFER OF CERTAIN FUNCTIONS.—All powers,
6 functions, and duties conferred upon the War Contracts
7 Price Adjustment Board by subsection (a) (4) (D) of
8 the Renegotiation Act, subject to the amendment there-
9 of by subsection (c) of this section, are hereby transferred
10 to the Administrator of General Services.

11 (e) FUNCTIONS AND RECORDS.—Each Secretary of a
12 Department is authorized and directed to eliminate the ex-
13 cessive profits determined under all existing renegotiation
14 agreements or orders by the methods enumerated in subsec-
15 tion (c) (2) of the Renegotiation Act in respect of all re-
16 negotiations conducted by his Department pursuant to dele-
17 gations from the War Contracts Price Adjustment Board.
18 The several Departments shall retain custody of the renego-
19 tiation case files covering renegotiations thus conducted for
20 such time as the Secretary deems necessary for the purposes
21 of this section, and thereafter they shall be made available
22 to the Renegotiation Board for appropriate disposition. The
23 renegotiation records of the War Contracts Price Adjustment
24 Board shall become records of the Renegotiation Board on
25 the effective date of this section.

1 (f) REFUNDS.—All refunds under subsection (a) (4)
2 (D) of the Renegotiation Act (relating to the recomputa-
3 tion of the amortization deduction), all refunds under the
4 last sentence of subsection (i) (3) of such Act (relating
5 to excess inventories), and all amounts finally adjudged or
6 determined to have been erroneously collected by the United
7 States pursuant to a determination of excessive profits, with
8 interest thereon in the last mentioned case at a rate not to
9 exceed 4 per centum per annum as may be determined by
10 the Administrator of General Services or his duly authorized
11 representative computed to the date of certification to the
12 Treasury Department for payment, shall be certified by the
13 Administrator of General Services or his duly authorized
14 representative to the Treasury Department for payment from
15 such appropriations as may be available therefor: *Provided*,
16 That such refunds shall be based solely on the certificate of
17 the Administrator of General Services or his duly authorized
18 representative.

19 (g) EXISTING POLICIES, PROCEDURES, ETC., TO RE-
20 MAIN IN EFFECT.—All policies, procedures, directives, and
21 delegations of authority prescribed or issued (1) by the War
22 Contracts Price Adjustment Board, or (2) by any Secretary
23 or other duly authorized officer of the Government, under
24 the authority of the Renegotiation Act, in effect upon the
25 effective date of this section and not inconsistent herewith,

1 shall remain in full force and effect unless and until super-
2 seded, or except as they may be amended, under the author-
3 ity of this section or any other appropriate authority. All
4 functions, powers, and responsibilities transferred by this sec-
5 tion shall be accompanied by the authority to issue appropri-
6 ate regulations and procedures, or to modify existing pro-
7 cedures, in respect of such powers, functions, and respon-
8 sibilities.

9 (h) SAVINGS PROVISION.—This section shall not be
10 construed (1) to prohibit disbursements authorized by the
11 War Contracts Price Adjustment Board and certified pursu-
12 ant to its authority prior to the effective date of this sec-
13 tion, (2) to affect the validity or finality of any agreement
14 or order made or issued pursuant to law by the War Con-
15 tracts Price Adjustment Board or pursuant to delegations of
16 authority from it, or (3) to prejudice or to abate any action
17 taken or any right accruing or accrued, or any suit or pro-
18 ceeding had or commenced in any civil cause; but any court
19 having on its docket a case to which the War Contracts
20 Price Adjustment Board is a party, on motion or supple-
21 mental petition filed at any time within twelve months after
22 the effective date of this section, showing a necessity for the
23 survival of such suit, action, or other proceeding to obtain
24 a determination of the questions involved, may allow the
25 same to be maintained by or against the United States.

1 (i) RENEGOTIATION ACT NOT REPEALED.—Except as
2 by this Act specifically amended or modified, all provisions of
3 the Renegotiation Act shall remain in full force and effect.

4 (j) DEFINITIONS.—The terms which are defined in the
5 Renegotiation Act shall, when used in this section, have the
6 same meaning as when used in the Renegotiation Act, except
7 that where a renegotiation function has been transferred by
8 or pursuant to law the terms “Secretary” or “Secretaries”
9 and “Department” or “Departments” shall be understood to
10 refer to the successors in function to those officers or offices
11 specifically named in the Renegotiation Act.

12 (k) EFFECTIVE DATE OF SECTION.—This section shall
13 take effect sixty days after the date of the enactment of this
14 Act.

15 **SEC. 202. PERIOD OF LIMITATIONS FOR RENEGOTIATION**
16 **ACT OF 1948.**

17 No proceeding under the Renegotiation Act of 1948
18 to determine the amount of excessive profits for any fiscal
19 year shall be commenced more than one year after the
20 mandatory statement required by the regulations issued
21 pursuant to such Act is filed with respect to such year,
22 or more than six months after the date of the enactment of
23 this title, whichever is the later, and if such proceeding is
24 not so commenced (in the manner provided by the regula-
25 tions prescribed pursuant to such Act), all liabilities of the

1 contractor or subcontractor under such Act for excessive
2 profits received or accrued during such fiscal year shall
3 thereupon be discharged. If an agreement or order deter-
4 mining the amount of excessive profits under such Act is
5 not made within two years following the commencement
6 of the renegotiation proceeding, then upon the expiration
7 of such two years all liabilities of the contractor or sub-
8 contractor for excessive profits with respect to which such
9 proceeding was commenced shall thereupon be discharged,
10 except that (1) such two-year period may be extended
11 by mutual agreement, and (2) if within such two years
12 such an order is duly issued pursuant to such Act, such
13 two-year limitation shall not apply to the review of such
14 order by any renegotiation board duly authorized to under-
15 take such review.

16 **SEC. 203. AMENDMENT OF SECTION 3806 OF THE INTER-**
17 **NAL REVENUE CODE.**

18 Section 3806 (a) (1) of the Internal Revenue Code
19 is hereby amended by striking out subparagraphs (A),
20 (B), and (C) and inserting in lieu thereof the following:

21 “(A) The term ‘renegotiation’ includes any
22 transaction which is a renegotiation within the
23 meaning of the Federal renegotiation act applicable
24 to such transaction, any modification of one or more

1 contracts with the United States or any agency
2 thereof, and any agreement with the United States
3 or any agency thereof in respect of one or more
4 such contracts or subcontracts thereunder.

5 “(B) The term ‘excessive profits’ includes any
6 amount which constitutes excessive profits within
7 the meaning assigned to such term by the applicable
8 Federal renegotiation act, any part of the contract
9 price of a contract with the United States or any
10 agency thereof, any part of the subcontract price
11 of a subcontract under such a contract, and any
12 profits derived from one or more such contracts or
13 subcontracts.

14 “(C) The term ‘subcontract’ includes any pur-
15 chase order or agreement which is a subcontract
16 within the meaning assigned to such term by the
17 applicable Federal renegotiation act.

18 “(D) The term ‘Federal Renegotiation Act’
19 includes section 403 of the Sixth Supplemental
20 National Defense Appropriation Act (Public 528,
21 77th Cong., 2d Sess.), as amended or supplemented,
22 the Renegotiation Act of 1948, as amended or
23 supplemented, and the Renegotiation Act of 1951,
24 as amended or supplemented.”

1 SEC. 204. SEPARABILITY PROVISION.

2 If any provision of this Act or the application of any
3 provision to any person or circumstance is held invalid,
4 the validity of the remainder of the Act and of the applica-
5 tion of its provisions to other persons and circumstances
6 shall not be affected thereby.

82^d CONGRESS
1ST SESSION

H. R. 1724

[Report No. 7]

A BILL

To provide for the renegotiation of contracts,
and for other purposes.

By Mr. DOUGLTON

JANUARY 19, 1951

Referred to the Committee on Ways and Means

JANUARY 20, 1951

Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

82^D CONGRESS
1st Session

} HOUSE OF REPRESENTATIVES {

REPORT
No. 11

CONSIDERATION OF H. R. 1724

JANUARY 22, 1951.—Referred to the House Calendar and ordered to be printed

Mr. SABATH, from the Committee on Rules, submitted the following

REPORT

[To accompany H. Res. 87]

The Committee on Rules, having had under consideration House Resolution 87, report the same to the House with the recommendation that the resolution do pass.



House Calendar No. 2

82D CONGRESS
1ST SESSION

H. RES. 87

[Report No. 11]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 22, 1951

Mr. SABATH, from the Committee on Rules, reported the following resolution;
which was referred to the House Calendar and ordered to be printed

RESOLUTION

1 *Resolved*, That immediately upon the adoption of this
2 resolution it shall be in order to move that the House resolve
3 itself into the Committee of the Whole House on the State
4 of the Union for the consideration of the bill (H. R. 1724)
5 to provide for the renegotiation of contracts, and for other
6 purposes. That after general debate which shall be con-
7 fined to the bill and continued not to exceed three hours,
8 to be equally divided and controlled by the chairman and
9 ranking minority member of the Committee on Ways and
10 Means, the bill shall be read for amendment under the five-
11 minute rule. At the conclusion of the consideration of the
12 bill for amendment, the Committee shall rise and report

- 1 the bill to the House with such amendments as may have
 2 been adopted and the previous question shall be considered
 3 as ordered on the bill and amendments thereto to final passage
 4 without intervening motion except one motion to recommit.

82ND CONGRESS
 1ST Session

House Calendar No. 2

H. RES. 87

[Report No. 11]

RESOLUTION

Providing for the consideration of H. R. 1724,
 a bill to provide for the renegotiation of
 contracts, and for other purposes.

By Mr. SABATH

JANUARY 22, 1951
 Referred to the House Calendar and ordered to be
 printed

poses"; to the Committee on Armed Services.

104. A letter from the Assistant Secretary of the Interior, transmitting tabulations submitted by the Director of the Bureau of Land Management showing the withdrawals and restorations made under the act approved June 25, 1910 (36 Stat. 847; 16 U. S. C., sec. 471; 43 U. S. C., sec. 141), for the period from January 1 through December 31, 1950; to the Committee on Public Lands.

105. A letter from the Deputy Attorney General, transmitting a letter recommending legislation similar to House bill 7827, Eighty-first Congress, entitled "A bill to increase criminal penalties under the Sherman Antitrust Act"; to the Committee on the Judiciary.

106. A letter from the Deputy Attorney General, transmitting a draft of an amendment recommending amendment of sections 1581, 1583, and 1584 of title 18, United States Code, entitled "A bill to amend sections 1581, 1583, and 1584 of title 18, United States Code, so as to prohibit attempts to commit the offenses therein proscribed"; to the Committee on the Judiciary.

107. A letter from the Acting Secretary of the Treasury, transmitting a letter reporting the settlement of the claim of the Port Ashton Packing Co., of Seattle, Wash., as owner of the fishing-tender type vessel *Decorah*, for damage sustained as the result of collision with the Coast Guard cutter *White Holly* in Georgia Strait, British Columbia, on or about August 27, 1949, the amount of payment being \$3,333.07, pursuant to Public Law 207, Eighty-first Congress; to the Committee on the Judiciary.

108. A letter from the Deputy Attorney General, transmitting a letter recommending passage of legislation to increase the existing limitations on the amount of funds which may be expended for the purpose of providing facilities for the enforcement of the customs and immigration laws, where no other suitable facilities exist (a bill, H. R. 9854, 81st Cong., was introduced to effectuate this recommendation, and a bill, S. 24, has been introduced in the 82d Cong.); to the Committee on Public Works.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Virginia: Committee on Rules. House Resolution 83. Resolution for consideration of H. R. 1, a bill to authorize the payment by the Administrator of Veterans' Affairs of a gratuitous indemnity to survivors of members of the Armed Forces who die in active service, and for other purposes; without amendment (Rept. No. 8). Referred to the House Calendar.

Mr. KILDAY: Committee on Armed Services. H. R. 1726. A bill to provide for the organization of the Air Force and the Department of the Air Force, and for other purposes; without amendment (Rept. No. 9). Referred to the Committee of the Whole House on the State of the Union.

Mr. DOUGHTON: Committee on Ways and Means. House Joint Resolution 87. Joint resolution amending section 5012 of the Internal Revenue Code; without amendment (Rept. No. 10). Referred to the Committee of the Whole House on the State of the Union.

Mr. SABATH: Committee on Rules. House Resolution 87. Resolution for consideration of H. R. 1724, a bill to provide for the renegotiation of contracts, and for other purposes; without amendment (Rept. No. 11). Referred to the House Calendar.

Mr. SABATH: Committee on Rules. House Resolution 88. Resolution for consideration of H. R. 1726, a bill to provide for the or-

ganization of the Air Force and the Department of the Air Force, and for other purposes; without amendment (Rept. No. 12). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANGELL:

H. R. 1862. A bill to enable the people of Hawaii to form a constitution and State government and to be admitted into the Union on an equal footing with the original States; to the Committee on Public Lands.

H. R. 1863. A bill to provide for the admission of Alaska into the Union; to the Committee on Public Lands.

H. R. 1864. A bill providing for taxation by the States and their political subdivisions of certain real property acquired for military purposes; to the Committee on Public Lands.

H. R. 1865. A bill to provide for compensation to blind persons for loss of earning power due to blindness; to the Committee on Ways and Means.

H. R. 1866. A bill to authorize the remodeling and extension of the existing main post-office building and to construct a new post-office building in Portland, Oreg., and for other purposes; to the Committee on Public Works.

H. R. 1867. A bill to amend sections 112 and 113 of the Internal Revenue Code; to the Committee on Ways and Means.

H. R. 1868. A bill to amend Public Law 439, Eighty-first Congress, cited as the Agricultural Act of 1949; to the Committee on Agriculture.

H. R. 1869. A bill to provide a correctional system for juvenile delinquents proceeded against in the courts of the United States, and for other purposes; to the Committee on the Judiciary.

H. R. 1870. A bill to amend an act entitled "An act for the protection of the bald eagle," approved June 8, 1940; to the Committee on Merchant Marine and Fisheries.

H. R. 1871. A bill to provide additional time for presenting certain tort claims against the United States; to the Committee on the Judiciary.

H. R. 1872. A bill to provide for the acquisition of a site and preparation of plans and specifications for a new postal building in the Piedmont district, in Portland, Oreg., and for other purposes; to the Committee on Public Works.

H. R. 1873. A bill to provide for the acquisition of a site and preparation of plans and specifications for a new postal building in the Montavilla district, in Portland, Oreg., and for other purposes; to the Committee on Public Works.

H. R. 1874. A bill to provide for the acquisition of a site and preparation of plans and specifications for a new postal building in the Rose City Park district, in Portland, Oreg., and for other purposes; to the Committee on Public Works.

H. R. 1875. A bill to amend section 117 (j) of the Internal Revenue Code with respect to the income-tax treatment of sales of livestock; to the Committee on Ways and Means.

H. R. 1876. A bill relating to the prevention of unreasonable and unconscionable speculation and profiteering in coffee, and relating to stabilization of the price of coffee to consumers at a reasonable level; to the Committee on Banking and Currency.

By Mr. BOGGS of Delaware:

H. R. 1877. A bill to create the Small Defense Plants Corporation and to preserve small-business institutions and free competitive enterprise; to the Committee on Banking and Currency.

By Mr. BOLLING:

H. R. 1878. A bill to amend the act entitled "An act to establish a uniform system of

bankruptcy throughout the United States," approved July 1, 1898, as amended, in relation to extensions made pursuant to wage earners' plans under chapter XIII of such act; to the Committee on the Judiciary.

H. R. 1879. A bill to provide for research relating to child life and development; to disseminate information as to the practical application of such research by parents, professional persons, and others; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CELLER:

H. R. 1880. A bill to amend section 1404 of title 28, United States Code, with respect to the transfer of certain civil actions from one district to another; to the Committee on the Judiciary.

By Mr. ELLIOTT:

H. R. 1881. A bill to authorize the payment by the Administrator of Veterans' Affairs of a gratuitous indemnity to survivors of members of the Armed Forces who die in active service, and for other purposes; to the Committee on Veterans' Affairs.

H. R. 1882. A bill to grant certain educational, loan, employment, and other benefits provided for veterans of World War II to persons on active service with the Armed Forces during the present hostilities; to the Committee on Veterans' Affairs.

H. R. 1883. A bill to provide retirement annuities for retired fourth-class postmasters with 30 years of service; to the Committee on Post Office and Civil Service.

H. R. 1884. A bill to provide for the preparation, printing, and distribution of a list of all persons who died at any time after May 26, 1941, and before December 31, 1946, while serving on active duty with the Armed Forces of the United States; to the Committee on Armed Services.

H. R. 1885. A bill to exempt admissions to certain charitable entertainments from the Federal admissions tax; to the Committee on Ways and Means.

H. R. 1886. A bill to provide free mailing privileges for patients in or at veterans' hospitals; to the Committee on Post Office and Civil Service.

H. R. 1887. A bill to make the educational benefits of the Servicemen's Readjustment Act of 1944 available to the children of persons who died in active service or who died as a result of wounds received in World War II; to the Committee on Veterans' Affairs.

H. R. 1888. A bill to provide free postage for members of the Armed Forces of the United States; to the Committee on Post Office and Civil Service.

By Mr. EDWIN ARTHUR HALL:

H. R. 1889. A bill to give all persons serving in our Armed Forces the right to vote, regardless of age; to the Committee on House Administration.

By Mr. LATHAM:

H. R. 1890. A bill to establish a Commission on Tax Coordination in the United States; to the Committee on Ways and Means.

By Mr. MACHROWICZ:

H. R. 1891. A bill to amend the act of July 6, 1945, as amended, so as to reduce the number of grades for the various positions under such act, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MORRISON:

H. R. 1892. A bill to reclassify postmasters, assistant postmasters, and other positions in the postal field service; to the Committee on Post Office and Civil Service.

H. R. 1893. A bill to adjust the salaries of postmasters and supervisors of the field service of the Post Office Department; to the Committee on Post Office and Civil Service.

H. R. 1894. A bill to assist members of the Armed Forces on furlough or leave to visit their homes by providing transportation and meals on a reimbursable basis, and for other purposes; to the Committee on Armed Services.

By Mr. MORTON:

H. R. 1895. A bill to authorize the Federal Security Administrator to bring to Washington, D. C., theater productions of land-grant and State and other accredited colleges and universities; to the Committee on Education and Labor.

By Mr. MURRAY of Wisconsin:

H. R. 1896. A bill to authorize the shipment of grade A milk into the District of Columbia; to the Committee on the District of Columbia.

H. R. 1897. A bill to authorize an appropriation for cooperation with joint district No. 5, towns of Almon, Barthelme, Morris, and Seneca, and the village of Bowler, Shawano County, Wis., for the construction, extension, improvement, and equipment of public-school buildings at Bowler, Wis., to be available to both Indian and non-Indian children; to the Committee on Public Lands.

By Mr. POTTER:

H. R. 1898. A bill authorizing an annual appropriation to enable the Secretary of Commerce to compile and make available information and statistical data relating to travel within the United States; to the Committee on Post Office and Civil Service.

By Mr. RANKIN:

H. R. 1899. A bill to amend section 2 of the act entitled "An act to incorporate the National Society of the Daughters of the American Revolution"; to the Committee on the Judiciary.

By Mr. HUGH D. SCOTT, JR.:

H. R. 1900. A bill to amend section 22 (b) (6) of the Internal Revenue Code; to the Committee on Ways and Means.

By Mr. SMITH of Virginia:

H. R. 1901. A bill to provide for the disposal of the Nevius tract at public sale; to the Committee on Public Works.

By Mr. MORRISON:

H. R. 1902. A bill to rescind the order of the Postmaster General curtailing certain postal services; to the Committee on Post Office and Civil Service.

By Mr. TOWE:

H. R. 1903. A bill to amend the Selective Service Act of 1948, as amended; to the Committee on Armed Services.

By Mr. VAN PELT:

H. R. 1904. A bill to incorporate the Military Order of the Purple Heart; to the Committee on the Judiciary.

By Mr. VAN ZANDT:

H. R. 1905. A bill to amend Public Law 810, Eightieth Congress, approved June 29, 1948, designated as the "Army and Air Force Vitalization and Retirement Equalization Act of 1948"; to the Committee on Armed Services.

By Mr. ANGELL:

H. J. Res. 123. Joint resolution to provide for the conveyance to Portland, Oreg., of certain property to be maintained by such city as an air-raid shelter during emergencies with the need therefore, and for other public and municipal purposes at all other times; to the Committee on Public Works.

H. J. Res. 124. Joint resolution proposing an amendment to the Constitution of the United States relating to the terms of office of the President and the Vice President; to the Committee on the Judiciary.

By Mr. RANKIN:

H. J. Res. 125. Joint resolution terminating United States participation in the activities of the United Nations; to the Committee on Foreign Affairs.

By Mr. ELLIOTT:

H. J. Res. 126. Joint resolution to authorize the issuance of a stamp commemorating Dr. William Crawford Gorgas, of Alabama, who achieved national distinction in the field of preventive medicine by conquering yellow fever, thus making possible the building of the Panama Canal; to the Committee on Post Office and Civil Service.

By Mr. SHAFER:

H. Res. 84. Resolution expressing the sense of the House with respect to the granting of a seat in the Security Council of the United Nations to the Chinese Communist regime; to the Committee on Foreign Affairs.

By Mr. MURDOCK:

H. Res. 85. Resolution to provide funds for the expenses of the investigation authorized by House Resolution 80; to the Committee on House Administration.

By Mr. POULSON:

H. Res. 86. Resolution authorizing a biennial audit, by the office of the Comptroller General, of the offices of the Chief Clerk, the Doorkeeper, the Sergeant at Arms, and the Postmaster of the House of Representatives, and for other purposes; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred, as follows: :

By Mr. ANGELL:

H. R. 1906. A bill to exempt from customs duty the cembalo of Reed College, Portland, Oreg., and to provide for the refund of customs duty previously paid thereon; to the Committee on Ways and Means.

H. R. 1907. A bill for the relief of Giovanni W. Bevilacqua and Elio Maraldo; to the Committee on the Judiciary.

H. R. 1908. A bill for the relief of Helena Jange Chinn; to the Committee on the Judiciary.

H. R. 1909. A bill for the relief of Christina Karamanos Demas and Antonia Karamanos Demas; to the Committee on the Judiciary.

H. R. 1910. A bill for the relief of Henry Kolish; to the Committee on the Judiciary.

H. R. 1911. A bill for the relief of Chikako Shishikura Kawata; to the Committee on the Judiciary.

By Mr. BOLLING:

H. R. 1912. A bill for the relief of Wilcox Electric Co., Inc.; to the Committee on the Judiciary.

By Mr. GOSSETT:

H. R. 1913. A bill for the relief of Milagros Aujero; to the Committee on the Judiciary.

By Mr. HAVENNER:

H. R. 1914. A bill for the relief of certain Yugoslavs; to the Committee on the Judiciary.

H. R. 1915. A bill for the relief of Emilia Barpi; to the Committee on the Judiciary.

H. R. 1916. A bill for the relief of Mrs. Catalina Apacible Limjap and her three children; to the Committee on the Judiciary.

H. R. 1917. A bill for the relief of Charles P. Eliot; to the Committee on the Judiciary.

By Mr. HOLMES:

H. R. 1918. A bill for the relief of Dewey J. Crites, Jack Mayta, and James Willette; to the Committee on the Judiciary.

By Mr. KING:

H. R. 1919. A bill for the relief of Mrs. Rosara Cusimano; to the Committee on the Judiciary.

By Mr. LANHAM:

H. R. 1920. A bill for the relief of Hoshi Kazuo; to the Committee on the Judiciary.

By Mr. LATHAM:

H. R. 1921. A bill for the relief of Kenneth R. Kleinman; to the Committee on the Judiciary.

H. R. 1922. A bill for the relief of Max C. Simon; to the Committee on the Judiciary.

By Mr. MULTER:

H. R. 1923. A bill to confer jurisdiction upon the District Court for the Northern District of Illinois to hear and determine the claims of the Aetna Insurance Co. and others; to the Committee on the Judiciary.

By Mr. MORRISON:

H. R. 1924. A bill for the relief of Mary Wyshoff; to the Committee on the Judiciary.

H. R. 1925. A bill for the relief of Efstathios Papavasiliopoulos (Eustace Papavas); to the Committee on the Judiciary.

H. R. 1926. A bill for the relief of Oswald A. Dritsas-Minieris; to the Committee on the Judiciary.

By Mr. MULTER:

H. R. 1927. A bill for the relief of Mrs. Caroline M. Neumark and Melville Moritz; to the Committee on the Judiciary.

By Mr. RIBICOFF:

H. R. 1928. A bill for the relief of Margareta (Margaret) Klapp; to the Committee on the Judiciary.

By Mr. SASSER:

H. R. 1929. A bill for the relief of Dr. Clearhos Logothetis; to the Committee on the Judiciary.

By Mr. SMITH of Virginia:

H. R. 1930. A bill for the relief of Vincenzo Carannante; to the Committee on the Judiciary.

H. R. 1931. A bill for the relief of Orange Henrique Gomes; to the Committee on the Judiciary.

H. R. 1932. A bill for the relief of Cheng-Fu Wang and Funghin Liu Wang; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause I of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

17. By Mr. MACK of Washington: Resolution of Fred Needham Post, No. 2669, Veterans of Foreign Wars, of Port Orchard, Wash., regarding all-out mobilization and severance of diplomatic relations with Russia; to the Committee on Banking and Currency.

18. Also, resolution of the Washington State House of Representatives, commending the good citizenship of the colored people of the State of Washington; to the Committee on the Judiciary.

House of Representatives

TUESDAY, JANUARY 23, 1951

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D. D., offered the following prayer:

Almighty God, grant that daily we may come to the sacrament of public service with clear minds and courageous hearts and with an eager desire to perform all our tasks in ways which are well pleasing unto Thee.

When we are anxious may we find our peace in the thought of Thy love and power; when we are harassed with doubt may our faith be strengthened, and may we heed Thy voice as Thou dost say: "This is the way, walk ye therein."

Imbue us with a willing obedience to Thy laws and a joyous harmony with Thy divine purposes. May we never surrender our hope and trust in Thee.

Inspire us with the glorious faith which sees, even in the confusion of the darkest day, the foregleams of that greater and better time when the kingdoms of this earth shall become the kingdom of our Lord.

In Christ's name we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

CORRECTION

Mr. HOFFMAN of Michigan. Mr. Speaker, yesterday when I spoke on the floor I asked that certain exhibits or excerpts from the rules be included in my remarks. Instead of being printed as footnotes they were printed in the body of the Record and I ask unanimous consent that the permanent Record be corrected so that these excerpts will be printed as footnotes as they were before.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

RENEGOTIATION OF CONTRACTS

Mr. SABATH. Mr. Speaker, I call up House Resolution 87 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes. That after general debate which shall be confined to the bill and continued not to exceed 3 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and

the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. SABATH. Mr. Speaker, I yield myself 15 minutes.

Mr. Speaker, House Resolution 87 provides for the consideration of H. R. 1724, to provide for the renegotiation of contracts in connection with the national defense program. It is an open rule, providing for 3 hours of general debate equally divided between the eminent chairman of the Committee on Ways and Means and the ranking minority member of the committee, after which the bill is open for amendment under the 5-minute rule.

The bill was unanimously reported by the Committee on Ways and Means, and while I personally feel certain amendments should be discussed and considered on this floor, I know full well the measure is the result of the usual careful and thorough deliberations always given such major legislation by this important committee and is in the best interests of the Nation.

Under the vastly expanded defense budget the President has asked for, involving for defense alone the sum of approximately \$40,000,000,000, contractors are being asked to produce many new types of equipment, armament, shells, and so forth, just as they were during the last war, when contracts were let to many manufacturers with no previous experience on such material desperately needed for the war effort. Consequently prices were extremely high initially, but as the work progressed, methods and means were found to substantially reduce these costs of production. To safeguard the interests of the taxpayers and the Government we enacted the Renegotiation Act of 1942 which became law on April 28, 1942. That act was made inapplicable to performance after December 31, 1945. Under it we were able to recover some \$11,000,000,000 for the taxpayers in excess costs and there is still pending cases involving some \$5,000,000,000.

In 1948 we passed another renegotiation act to cover the expanding aircraft procurement program, which became effective May 21, 1948. This act has since been extended and broadened and is still being administered. However, its provisions are wholly inadequate to meet the present situation.

After exhaustive study and careful preparation the Committee on Ways and Means has reported this bill, designed to supplement existing law as well as to cover the vast development of our procurement program now under way.

Under this bill all responsibility for renegotiation of contracts is placed in

an independent agency in the executive branch, known as the Renegotiation Board. It consists of five members, three of which must be civilians, the other two being members of the procurement organization of the Defense Department familiar with its operation. The civilian members are to draw compensation of \$12,500 per annum, the Chairman to be designated by the President. All appointments to the Board require the confirmation of the Senate.

The bill makes subject to renegotiation all moneys received or accrued by a contractor or subcontractor on or after January 1, 1951. Renegotiation is limited to contracts over \$100,000. Subcontractors—the agents and lobbyists, the so-called 5 percenters—who derive their income from fees or commissions due to their supposed influence in securing these contracts, would be renegotiated when receiving \$25,000 or more in any one year. Personally I feel that the basic limit on contractors should be reduced to \$25,000 and the limit placed on the lobbyists and 5 percenters for renegotiation should be reduced to \$10,000 in any one year.

The bill excludes contractors or subcontractors who are producers of agricultural products. I wonder whether, in this connection, the committee has given full consideration to the excessive profits garnered by the giant outfits producing potatoes in Maine, the organizations, corporations, and individuals operating the vast-acreage wheat and corn fields of the Middle West and the West, and the large plantation owners in the South? I certainly favor excluding the average farmer from the provisions of this bill, but I do not favor exempting the giants in the agricultural field who so frequently take advantage of conditions to extort unconscionable profits because of their power.

Next, it excludes contractors or subcontractors engaged in the primary production of minerals, oil or natural gas, or natural deposits where the product has not been refined, processed, or treated beyond ordinary processes. From accounts continually appearing in the financial pages of our newspapers, these companies are not going bankrupt; in fact, they are making millions upon millions. I wonder why they should be exempt? It is my belief they should be included the same as other contractors in the war effort. I am not opposed to their making reasonable and fair profits, but if their returns are excessive and they are found holding up the Government during these critical times, they, too, should be required to renegotiate their contracts and return to the Government the enormous excess profits that have been found to exist from time to time.

The same applies to the large timber producers who are exempted under this bill. I do not know for certain whether they are responsible for the greatly increased price of lumber today but if they are, they should come under this bill. In addition, we have the farm implement manufacturers, whom I do not see mentioned in this measure. I have perhaps the largest implement manufacturing plant in the United States in my district. Should they be exempted from renegotiation in these times? I never heard any farmer complaining that the price he pays for his machinery is too low; in fact, I have heard universal complaint that the prices are far too high. Should they be exempted from the provisions of this bill? I have no intention of setting myself above the committee. They have held extensive hearings and I feel certain the members have exerted every effort to bring out a fair compromise which resulted in the unanimous reporting of the measure. However, I wonder whether perhaps we could prevail upon the committee to accept some changes during its forthcoming consideration which might bring in some of the elements in our productive economy to which I have referred and which I feel should be included under the provisions of this renegotiation act.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SABATH. In a minute if the gentleman will pardon me. The bill also excludes contracts with the several States, our Territories and possessions, and with foreign governments. Let us look into this a moment. It is all right, as I see it, to exempt the States and our Territories and possessions, but as to foreign governments, I question the wisdom of exempting them entirely. We all know how Great Britain controls the wool and tin markets of the world. Should they be permitted to overcharge us in this great emergency and make huge profits on these products so vital to our and their defense as they have done heretofore and are doing now? We are all familiar with the control over natural rubber production held by the Dutch and the French in Indochina and Malaya. Should these countries be excluded and permitted to reap the fantastic profits that now prevail on this critical material in this emergency?

Mr. Speaker, I earnestly believe some of our contracts with foreign firms controlled by foreign governments should not be excluded. With the staggering burden ahead of us, every dollar of unnecessary and unwarranted cost must be saved for our taxpayers who must bear this burden. I hope that at the conclusion of debate on this bill, when it is read under the 5-minute rule, we may inquire of the splendid chairman and gentlemen of the Committee on Ways and Means whether it is feasible and to include some or all of the industries and foreign governments to which I have alluded above under the provisions of this legislation, thus safeguarding and protecting our Government and its taxpayers.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield to the gentleman from Iowa.

Mr. GROSS. In other words, what the gentleman is saying is that it is a snare and delusion to think this bill is going to take the profits out of war. I want to commend the gentleman for his statement and I hope he will offer amendments that will plug up the loopholes in the bill.

Mr. SABATH. I thank the gentleman for his contribution. Yes, I wish this bill would take the profit out of war, for if we can bring about such an accomplishment I am inclined to believe the danger of wars would be greatly minimized.

Personally, I am not possessed of the vast store of information this great committee has accumulated on this proposed legislation. The members may have had definite reasons for including these exemptions, by yielding here and there in order to obtain a unanimous report, to satisfy the minority members of the committee who invariably talk economy but when it comes to practicing what they preach they fail to carry out their laudable intentions. We understand how things are done in committees. Consequently, I do not blame the committee, but I do believe some of these exemptions and exceptions are not justifiable or warranted. Would it not be in the interest of economy if we recouped all unjustifiable profits—if we provided for the refunding of excess profits from all, making no exemptions nor creating any favorites?

It may be fitting for me at this time, in mentioning the work of your committee, to call attention to the oft-repeated remarks of that great legislator and statesman, the Honorable James R. Mann, who usually would say "Hindoo do the best that he can do." I hope, as I stated before, that when the bill is read under the 5-minute rule we may arrive at some amendments which will increase the amounts refunded out of the billions we are going to expend and are obliged to expend for the defense of our country.

Mr. Speaker, at this time I yield 30 minutes to the gentleman from Illinois [Mr. ALLEN].

(Mr. SABATH asked and was given permission to revise and extend his remarks.)

Mr. ALLEN of Illinois. Mr. Speaker, the bill provides for the renegotiation of defense contracts for the elimination of excessive profits. Its principal provisions, modeled generally after the World War II Renegotiation Act (U. S. C. 50 App. 1191), are summarized as follows:

GENERAL APPLICATION

The act shall apply, first, to receipts and accruals on or after January 1, 1951, from contracts and related subcontracts with the military departments, the Department of Commerce, the General Services Administration, and the Atomic Energy Commission; and, second, to receipts and accruals from contracts and related subcontracts with such other agencies performing defense functions as the President may designate, after such designation. But it shall not apply to receipts and accruals attributable to performance after December 31, 1953.

The act shall apply to all contracts falling within its terms, but such contracts shall, nevertheless, contain stipulations consenting to renegotiation.

EXEMPTIONS

The following contracts and subcontracts thereunder are exempt from the act: First, contracts with other governmental agencies, domestic or foreign; second, contracts with agricultural producers for commodities in their raw or natural state, or in the subsequent state in which they are usually first sold or have a market; third, contracts with the owners or operators of mines and wells for the product thereof before it is processed to its first usual marketable form; fourth, contracts with timber owners or log producers for timber which has not been processed beyond the form of logs; and, fifth, contracts which the Renegotiation Board has discretion to, and does, exempt, these being (a) contracts to be performed abroad; (b) contracts wherein the profits can be determined with reasonable certainty when the contract price is established; (c) contracts for a definite period if their provisions are adequate to prevent excessive profits; (d) contracts whose renegotiation would jeopardize secrecy required in the public interest; and (e) contracts as to which it is not administratively feasible to segregate profits attributable to activities not subject to renegotiation.

MINIMUM AMOUNTS SUBJECT TO RENEGOTIATION

A specific yearly exemption is provided each contractor or subcontractor for receipts and accruals under contracts and subcontracts, first, in the nature of purchase orders, agreements to furnish materials or perform work, or patent licenses—in the aggregate amount of \$100,000; and, second, in the nature of brokerage agreements—in the aggregate amount of \$25,000. If the aggregate receipts and accruals are less than the amounts indicated, there is no renegotiation; and the excessive profits eliminated upon renegotiation shall in no case exceed the difference between aggregate receipts and accruals and such figures.

THE RENEGOTIATION BOARD

The Renegotiation Board is established as an independent executive agency to consist of five members appointed by the President and confirmed by the Senate, at least three of whom shall be from civilian life. Salaries of \$12,500 per annum are provided. The President shall designate a chairman, and the Board shall act by majority vote of a quorum, which shall be three members. The Board is authorized to establish necessary offices, to employ necessary personnel, to establish subordinate divisions of its members for the consideration or review of different types of cases, and to delegate any function or power—except the power to make rules and regulations—to any Government agency and to authorize its redelegation.

REPORTS AND AUDITS OF CONTRACTORS

Every holder of a contract or subcontract subject to the act shall file with the Board a financial statement in such form as the Board shall by regulation determine, on or before the beginning of the fourth calendar month following the

end of the contractor's fiscal year. A penalty—\$10,000 fine and/or 1-year imprisonment—is provided for willful misrepresentation or failure to comply. The Board shall have the power to audit the books and records of such contractors and subcontractors.

STANDARDS FOR DETERMINATION OF EXCESSIVE PROFITS

In determining excessive profits, the Board shall give consideration to the efficiency of the contractor, reasonableness of costs and profits—with particular regard to volume of production, comparison of war and peacetime products, and so forth—reasonableness of return on net worth—with particular regard to the amount and source of public and private capital—contribution to the defense effort, the extent of risk, the character of the business, and other factors required by the public interest and fair dealing—the latter to be published by the Board. All allowable income-tax deductions and exclusions may be allocated by the contractor as part of his costs, except through carry-back and carry-over operations.

RENEGOTIATION PROCEDURE

Whenever the Board is of the opinion that receipts and accruals under contracts, and so forth, may reflect excessive profits, it shall commence a renegotiation proceeding by notifying the contractor, and so forth, of a conference to be held for the purpose of reaching an agreement as to the elimination of excessive profits. Such agreement shall be conclusive, in the absence of fraud. If no such agreement is reached, the Board shall issue an order determining the amount, if any, of excessive profits, notify the contractor, and so forth, thereof, and furnish a statement of facts used as a basis therefor and its reasons for such determination. Determinations shall be based on the aggregate of receipts and accruals during the fiscal year or other agreed period under contracts held by the contractor, and so forth, except that contracts may be treated separately on request of the contractor. By agreement, renegotiation of the contracts of more than one contractor may be conducted on a consolidated basis. Unless an extension of time for payment of sums due under agreements or orders is granted by the Board, the Board, after the agreement or order is reached, shall direct the appropriate agency heads to eliminate the excessive profits by reductions in amounts payable under contracts or otherwise due the contractor, by directing Government contractors, and so forth, to withhold amounts due subcontractors, by a combination of such methods, or by suit. The contractor shall not be liable for the payment of excessive profits unless proceedings are commenced within 1 year after the filing of the contractor's financial statement, and an agreement or order is reached within 2 years after such commencement. Within 90 days appeals may be taken to the Tax Court from orders of the Board, for a proceeding de novo to

determine excessive profits, if any. The filing of such a petition shall not stay the execution of the order. Interest on excessive profits shall accrue at the rate of 6 percent from the date of the Board's order to the date of repayment. Interest at the same rate shall accrue in favor of the contractor on any amounts refunded by the Tax Court. The decision of the Tax Court shall be final.

Mr. Speaker, I believe this rule should be adopted.

(Mr. ALLEN of Illinois asked and was given permission to revise and extend his remarks.)

Mr. SABATH. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

Mr. DOUGHTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H. R. 1724, with Mr. THOMAS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

(Mr. DOUGHTON asked and was given permission to revise and extend his remarks.)

Mr. DOUGHTON. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, H. R. 1724, the bill to provide for the renegotiation of contracts, and for other purposes, would make possible the recapture of excessive profits directly attributable to business with agencies engaged in the defense program. Renegotiation, unlike excess-profits taxation, is limited to contracts with the Government, or related subcontracts. The excess-profits tax, however, is confined to corporations, while renegotiation applies to all forms of business enterprise.

A. HEARINGS

Extensive hearings were held by the Committee on Ways and Means in August of last year on the operation of prior renegotiation laws and the renegotiation statute now in effect. Contracts subject to renegotiation under the World War II statute aggregated in excess of \$200,000,000,000, from which gross amounts of more than \$11,000,000,000 were recaptured through renegotiation. These figures indicate the tremendous task of statutory renegotiation, and the importance of the comprehensive review of renegotiation experience which has been given by the Committee on Ways and Means. The committee carefully considered the testimony of the distinguished chairman of the Committee on Armed Services, the gentleman from Georgia [Mr. VINSON], who introduced in the last Congress a bill very similar

to the pending bill, as well as the testimony of representatives of the executive departments, and witnesses from industry, agriculture, and mining.

The Committee on Ways and Means concluded that present procurement problems are substantially as great as those which brought about the enactment of similar legislation in World War II, and that the scope of the existing renegotiation law is not broad enough to insure the uniform and effective recapture on a fair and equitable basis of excessive profits which may be derived from the expanded defense effort.

B. SUMMARY OF THE BILL

The bill covers contracts, and related subcontracts, with the Departments of Defense, Army, Navy, Air Force, Commerce, General Services Administration, the Atomic Energy Commission, and such other agencies exercising functions in connection with the national defense which the President may designate. It provides that if a contractor or subcontractor receives or accrues more than \$100,000 in his fiscal year he may be renegotiated for the year, and that a subcontractor whose income is derived from certain fees or commissions may be renegotiated if he has received or accrued more than \$25,000 in his fiscal year. This latter provision applies to the so-called 5 percenters as well as to others. The bill contains a termination date of December 31, 1953.

The bill follows the basic outline of the World War II renegotiation law in providing for mandatory exemption for agricultural commodities and the products of mines, oil or gas wells, and timber, except that the exemptions for such products in general are limited to the producers of the raw commodity and do not generally apply beyond the first commercially marketable state. In addition to the mandatory exemptions, certain other exemptions could be provided in the discretion of the Renegotiation Board.

This bill, unlike prior renegotiation laws, would establish a five-man renegotiation board, independent of the procurement agencies, to be appointed by the President and confirmed by the Senate. Members would receive compensation of \$12,500 per annum. At least three of the members would have to be from civilian life. The Board, of course, could delegate to the various procurement agencies the responsibility for initiating renegotiation of a contractor, but the decisions of the agency would be subject to review by the Board. In authorizing the Renegotiation Board to delegate some of its authority to conduct renegotiation proceedings it is intended that there should be no unnecessary duplication of renegotiation offices and personnel in the same area. Moreover, as stressed in the committee report, it is contemplated, in order to maintain the separation of the renegotiation and procurement functions, that renegotiation duties should not be delegated to agency personnel who are directly responsible for procurement. The determinations

of the Renegotiation Board would be subject to an entirely new review by the Tax Court of the United States, the re-determination of which would be final.

Under the bill contractors and subcontractors would file a financial statement with the Renegotiation Board within 3 months after the close of their fiscal year. The Board would have 1 year thereafter in which to initiate renegotiation proceedings, which would be commenced by formal notice to the contractor or subcontractor by registered mail.

An effort would first be made to obtain the agreement of the contractor or subcontractor to the elimination of excessive profits. If this is not found possible, a determination is made unilaterally, from which the contractor or subcontractor may take an appeal to the Tax Court.

CONCLUSION

Mr. Chairman, the President has submitted a budget message calling for military expenditures at the rate of \$41,500,000,000 a year. This rate of expenditure for military purposes is higher than that for any year of World War II prior to 1943. The acceleration of the defense program has resulted in procurement pricing problems quite similar to those which brought about the enactment of a renegotiation law during World War II. That renegotiation statute, broadly conceived and administered with care, was found to be a desirable supplement to other methods of avoiding excessive war profits. As President Roosevelt stated in his budget message of January 10, 1944:

The American people are united in their resolution to prevent war profiteering. Taxation alone is not enough. One of the most constructive attempts ever made to reduce profiteering at the expense of the Government in wartime was the renegotiation law enacted by the Congress in April 1942. That statute gives to the major procurement agencies the right and charges them with the duty to reexamine their war contracts and subcontracts and to recover excessive amounts paid under them, as well as to reduce inordinately high prices being charged for goods still to be delivered.

The record of performance under that statute has been good. The cost of our procurement program has already been reduced by over \$5,000,000,000 by contractors' agreements to refund money already paid them by the Government for war matériel and by price reductions granted the Government on goods still to be delivered. A considerable part of this amount would have escaped even wartime taxes. Many wartime profits are not subject to excess-profits taxation; moreover, even taxes paid may be refunded under various provisions of the present excess-profits-tax law. The recapture of exorbitant war profits, in my judgment, should be definitely assured by renegotiation. To measure the benefits of the renegotiation statute in terms of dollars recovered from war contractors is to understate its beneficial effect. The statute is enabling us to combine speed of procurement with fair prices for the goods the Government must buy. Without it the war procurement program would be handicapped.

Mr. Chairman, the enactment of this bill, based upon the foundation of our World War II experience in renegotiation and strengthened in the light of

that experience, will likewise further the best interests of the Government and of all the people in the greatly expanded defense program upon which we are now engaged. I trust that the bill will be speedily enacted.

Mr. REED of New York. Mr. Chairman, I yield myself 25 minutes.

Mr. Chairman, briefly stated the bill H. R. 1724 delegates to a 5-member administrative board the power to tax 100 percent of excessive profits derived by contractors and subcontractors from contracts with the executive departments. The bill contains no definition of the term "excessive profits" other than to say that it means that portion of profits derived from contracts with the departments and subcontracts which is determined to be excessive and the bill provides only that in making the determination of excessive consideration shall be given to six general factors and to such other factors the consideration of which the public interest and fair and equitable dealing may require.

Mr. DONDERO. Mr. Chairman, will the gentleman yield at this point?

Mr. REED of New York. I will yield to the gentleman.

Mr. DONDERO. I hope the gentleman will discuss this point during his remarks. I listened with great interest to what the chairman of the committee had to say about the board of five to be set up by the President. We have more than 2,000,000 Government employees now. Did the committee not think that out of that two million the President could find five people who would be competent to make up this Board of Renegotiation without setting up a new board and going outside to appoint five more men?

Mr. REED of New York. Let me answer the question this way. There was some difference of opinion about the matter. The first bill provided for seven members to be taken practically from the defense departments. A motion was made and carried to reduce it to a board of five, three of whom should be civilians. There were some who thought that the procurement agencies of the Government, who went out and procured the contract for the things that they needed and needed quickly, and in which there had been no experience heretofore in the manufacture, therefore could not determine the costs. Some members of the committee felt that perhaps the procurement people were better prepared, having made the contracts and studied all phases of them, than perhaps a new board of civilians who had had no connection with it. However, after very careful consideration, it was determined that there should be an independent board, with three civilians.

Mr. DONDERO. That is not exactly my point. My point was, Could they not have found five people within the Government now, without setting up a new board and going outside of the Government and obtaining five members?

Mr. COOPER. Mr. Chairman, if the gentleman will yield—

Mr. REED of New York. I yield.

Mr. COOPER. That is exactly what I wanted to discuss with the gentleman.

We considered the fact that, as the gentleman from New York states, the original bill provided for a board of seven to be taken from the departments of the Government. The committee, after thorough consideration and extensive hearings and consultation with people who had been administering the law, reached the conclusion that whereas to have one agency of the Government, or employees of the Government, making the contract, it might be fairer not to have other agencies of the Government renegotiating contracts made by Government agencies, and that in the interest of fairness to the contractors of the country it would probably be better to draw these five or part of these five Board members from the businessmen of the country who have had experience in business and whose experience is not limited to governmental activities.

Mr. REED of New York. One other point that I wish to make is that there is involved, of course, the principle of being judge and jury. Some felt that those who made the first determination would stand adamant against a finding that the determination was not correct.

Mr. DOUGHTON. Mr. Chairman, will the gentleman yield?

Mr. REED of New York. I yield.

Mr. DOUGHTON. I am sure my distinguished friend will recall that Hon. Robert Patterson, Secretary of War, whom we all know well and favorably, and who has had much experience in renegotiation of war contracts as a result of World War II, strongly recommended this being made an independent board.

Mr. REED of New York. That is true and perhaps it had a good deal to do with changing the opinion of the committee.

My purpose, Mr. Chairman, in calling the attention of the House at the very onset to the broad, unrestricted language and the sweeping delegation of power which this legislation provides is to make it perfectly clear to the House that this legislation can and should be justified and supported only because of the present accelerated emergency defense program. Renegotiation, like its twin brother, the excess-profits tax, has absolutely no place in a free economy under normal conditions. Unfortunately, of course, there are some who seek to use the present emergency period as a means for permanently fastening Socialist policies on our economic system, and it is of the utmost importance that the Congress be alert in preventing this insidious attack from within. I am glad to be able to say, however, that the Ways and Means Committee has been alert in this instance and that this legislation carries a termination date of December 31, 1953. This will insure that an accounting to the Congress will have to be made by those entrusted with the heavy responsibility for administering this remarkable delegation of power.

HISTORY OF RENEGOTIATION

The first Renegotiation Act was a part of the Sixth Supplemental National Defense Appropriation Act of 1942. That act was applicable to profits made in fiscal years ending prior to June 30, 1943, and contracts awarded by the War, Navy,

and Treasury Departments, the Maritime Commission, the War Shipping Administration, and the Reconstruction Finance Corporation and its subsidiaries. In view, however, of the considerable lack of uniformity in the administration of the 1942 act as well as a lack of any specific standards to be used as the measuring rod to determine excessive profits, the Congress enacted the Renegotiation Act of 1943 on which the bill before us is patterned.

The 1943 law differed from the 1942 Renegotiation Act in four principal ways:

First. The 1943 act created a War Contracts Price Adjustment Board which included a representative from each of the named governmental agencies. This Board was to formulate renegotiation policies and to be responsible for the administration of the act.

Second. The 1943 act provided that contested renegotiation determinations could be appealed to the tax court.

Third. The 1943 act eliminated from renegotiation all contractors whose gross annual wartime business was less than \$500,000.

Fourth. The 1943 act set forth seven factors which the price adjustment boards were to consider in determining whether a contractor had realized excessive profits.

In addition, the 1943 act made it mandatory for a contractor subject to the terms of the act to file a report on his wartime business rather than leaving it to the boards to locate contractors subject to renegotiation. It also exempted from renegotiation contracts for certain types of articles and permitted the exemption of certain other contracts. By subsequent amendments the 1943 act was extended until December 31, 1945.

The 1943 act expired at the end of 1945 and at the present time renegotiation authority is contained in the Renegotiation Act of 1948 which was a part of an appropriation bill for the contracts of military and naval aircraft. Although the provisions of the 1948 law have been extended to other military appropriations there is no authority at the present time to renegotiate contracts of any Government agencies other than the Department of Defense, and this limitation is one of the principal reasons for the enactment of H. R. 1724.

RENEGOTIATION PROCEEDINGS

H. R. 1724 is in general divided into two parts. The first part under title I is the substance of the bill and deals with the coverage of the new renegotiation provisions, creates a Renegotiation Board, and establishes the procedure's limitations and exemptions from coverage. The second part which is title II abolishes the War Contracts Price Adjustment Board which was created under the World War II act and provides for the transfer of certain residual functions and powers of that Board to the Administrator of General Services and to the new independent Renegotiation Board established under the bill.

I think, Mr. Chairman, it would be of interest, to the Members of the House if I outlined briefly at this point the re-

negotiation proceedings and process provided for in the bill.

The renegotiation process is set in motion by the mailing of a notice, by registered mail, to the contractor or subcontractor. An effort is then made by the Board to reach an agreement with the contractor or subcontractor as to the amount of excessive profits, if any. If no agreement is reached, the Renegotiation Board issues an order determining the amount of excessive profits and so advises the contractor or subcontractor by registered mail. Unless a petition is filed by the contractor or subcontractor within the prescribed time to the Tax Court, the order of the Renegotiation Board is final and is not subject to any review or redetermination by any court or other agency. If, however, a petition is filed with the Tax Court, the proceeding before the Tax Court is a proceeding de novo and the Tax Court has the exclusive jurisdiction to make a final determination of the amount, if any, of the excess profits received or accrued by the contractor or subcontractor. No further appeal is provided for in the bill.

I might say there was some sentiment on the part of certain members of the committee to provide for an appeal to the district courts, but after very full consideration it was thought that perhaps the present method is the fairer way to handle it effectively because the Tax Court has had considerable experience in these matters.

Where no agreement can be reached with the contractor or subcontractor and a determination of excessive profits has been made by the Board, the Board is required, if requested by the contractor or subcontractor, to furnish a statement of the amount of such determination, of the facts used as a basis for that determination, and the reasons for such determination. This statement may not, however, be used in the Tax Court either as proof of the facts or for the conclusions contained in the statement.

The Board is given the right to audit the books or records of any contractor or subcontractor subject to title I, and upon request of the Board and the approval of the Secretary of the Treasury the services of the Bureau of Internal Revenue may be made available to the Board.

A proceeding to determine the amount of excessive profits for any fiscal year may be commenced within 1 year after the financial statement required from the contractor or subcontractor for such year is filed with the Board and the Board has 2 years within which to complete the proceeding either through agreement or by an order. The 2-year period may, however, be extended by mutual agreement and the 2-year limitation does not apply to a review by the Board of an order made within such 2 years pursuant to any delegation of authority from the Board. Every contractor or subcontractor having renegotiable business within the provisions of the bill is required to file with the Board, on or before the first day of the fourth calendar month following the close of his fiscal year, a financial statement setting forth such information, and in such form

and detail as the Board may by its regulations prescribe.

THE RENEGOTIATION BOARD

The success of the administration of this Renegotiation process will depend primarily on the caliber of personnel appointed to the Board. This is so because in reality there are specific standards provided in the bill and the determination of what are excessive profits is in the final analysis a matter of judgment by the Board and by the Tax Court. The bill provides that the Board shall be composed of only five members appointed by the President with the consent of the Senate and at least three of these members must be from civilian life. The salary provided for in the bill is \$12,500, but I understand that there will be a committee amendment to increase this amount. This should be done, because it is clear that the duties of the members of this Board will be among the most important duties of any emergency defense agency.

I personally feel that the tremendous responsibility of the Board could better be executed if there were a seven-man Board instead of a five-man Board, and I feel also that all three of the military services should have a representative on the Board. As I see it, renegotiation is basically an integral part of the procurement process and it seems to me that the three services which are charged with the responsibility of spending the huge sums appropriated by the Congress should have the major responsibility to the people of seeing that the money they spend is spent prudently. To the best of my knowledge the criticism of the operation of the 1943 act did not arise because of the major role played by the services, and, on the contrary, the success of the 1943 act is attributable primarily to the high caliber of the personnel on the Board. In the executive session of the Ways and Means Committee, I argued in favor of a Board of seven, at least three of whom to be appointed from the services, and a seven-man Board was recommended by all the interested executive departments and was approved by the Bureau of the Budget. Despite this, the sentiment of the committee was for a five-man Board, and recognizing that this is a question of judgment and that progress is the result of compromise, I accept the majority decision.

COVERAGE AND EXEMPTIONS

H. R. 1724 provides that a contractor or subcontractor is not subject to renegotiation unless he has received or accrued more than \$100,000 in the year, but subcontractors whose income is derived from certain fees or commissions will be subject to renegotiation for any year in which they have receipts or accruals of \$25,000 or more. January 1, 1951, is the starting point and the provisions of title I are made applicable to all contracts with the departments which are specifically named in the bill and related subcontracts to the extent of the amounts received or accrued by a contractor or subcontractor on or after this date. The provisions apply to such contracts and subcontracts whether they

were made before January 1, 1951. In the case of contracts with departments designated by the President pursuant to section 103 (a) of the bill, the provisions of the bill apply to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of the first month beginning after the date of such designation. In this case, also, it is immaterial whether the contracts or subcontracts were made on, before, or after the date of designation.

Certain contracts and subcontracts are exempted entirely. These are set forth in section 106 and are as follows:

First. Contracts with States, possessions, Territories, or foreign governments.

Second. Contracts or subcontracts with producers of agricultural commodities for the agricultural commodity in its raw or natural state or, if the commodity is not customarily sold or does not have an established market in its raw or natural state, in the first form or state beyond the raw or natural state in which it is customarily sold or has an established market.

Third. Contracts or subcontracts for the product of mines, oil or gas wells, mineral or natural deposits where a product has not been processed, refined, or treated beyond the ordinary treatment processes, normally applied in order to obtain the first commercially marketable product, but only if such contract or subcontract is with the owner or operator of the producing property. Ordinary treatment processes in the case of mines, wells, and deposits are defined as being those used in determining gross income from property for which a percentage depletion allowance is provided in section 114 (b) (3) or (4) of the Internal Revenue Code. In the case of other products, the Board will prescribe regulations defining ordinary treatment processes.

Fourth. Contracts or subcontracts for timber which has not been processed beyond the form of logs where the contract or subcontract is with the owner of the timber property or the producer of the logs.

Fifth. Subcontracts directly or indirectly under a contract or subcontract to which the Renegotiation Act does not apply by reason of any of the above exemptions.

In the case of integrated producers of exempted products, the Renegotiation Board by regulation will prescribe a cost allowance substantially equivalent to the amount at which the product could be sold in the exempted state or form.

In general these mandatory exemptions are similar to the exemptions contained in the 1943 act. Certain limitations on the exemptions have been imposed by this bill but it is my understanding that these restrictions will not prevent the application of the exemption in accordance with the policy determined by the committee.

SUGGESTED IMPROVEMENTS

For the most part, Mr. Chairman, the Republican minority of the committee was in accord with the major provisions of the bill. There were, however, cer-

tain features of the bill which we opposed unanimously and certain other features which I, together with some members of the minority, disapproved.

For example, the Republican minority of the committee felt strongly that the provisions of the bill should be limited to contracts connected with the national defense in keeping with the general declaration of policy set forth at the beginning of the bill. Under the bill, however, any contract within the prescribed amount with any Government agency will come within the provisions of title II whether or not the contract is related to the defense program. This will not only impose an additional duty on the Board but is entirely unnecessary and ill-advised. I trust that when this legislation reaches the other body this point will be corrected both in the interest of lightening the burden on the Board as well as in the interest of restricting this law to its proper place.

In addition to my feeling that there should be a seven-member Board with increased salaries, I believe the bill should provide for an appeal from the Tax Court. In this connection it should be remembered that this legislation may have to remain in effect for a considerable time and that by reducing the amount of negotiable business from \$500,000, as provided for in the 1943 act, to \$100,000, the number of persons who feel aggrieved is bound to increase sharply. It seems to me that considering the broad authority of the Board, the lack of any specific standards in the bill, and the fact that the proceeding in the Tax Court is a proceeding de novo, some form of appeal on the record should be permitted.

Another defect in the bill is that nowhere in the legislation does the Congress express its intent that efficiency should be rewarded. If you will examine the seven factors in section 103 on pages 4 and 5 of the bill under which the determination of excessive profits is to be made by the Board, you will see that the Board does not have to reward efficiency of operation and economy in the use of materials, facilities, and manpower. I think such an expression of congressional intent should be contained in the bill, and that the contractors and subcontractors subject to renegotiation would know that the more efficiently they perform the work the greater would be the amount of profit they would be entitled to retain. I should imagine that this will be the policy of the Board, but there should be no doubt that it is the policy of the Congress.

In conclusion, Mr. Chairman, I shall support this bill because it is made necessary by the emergency defense program. At a time when fair and reasonable prices can be satisfactorily determined in advance and where firm-price buying is possible, this legislation should be repealed.

Mr. HINSHAW. Mr. Chairman, will the gentleman yield?

Mr. REED of New York. I yield to the gentleman from California.

Mr. HINSHAW. During the procurement in the last war I believe it was the Navy Department that established a pol-

icy which provided that in the procurement of certain items if efficiency was shown by the manufacturer some proportion of the profits that ensued from the efficiency might be retained by the manufacturer. That proved to be a very profitable thing for the United States. If no incentive to reduce these costs is provided in this bill, then the cost to the Government under the procurement policies is going to be very much higher than it would otherwise be, I am sure. I hope the gentleman can impress that fact on the Senate.

Mr. REED of New York. I thank the gentleman very much.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. REED of New York. I yield to the gentleman from Illinois.

Mr. JONAS. Does the exemption under the agricultural clause of this bill exempt cotton and tobacco?

Mr. REED of New York. In the raw state; yes.

Mr. JONAS. Does not the gentleman concede that the appeal which is provided to the Tax Court is merely a gesture, it is nugatory, because the bill provides that when you take the appeal to the Tax Court it does not stay the execution of the order entered by the Board; therefore, they could ruin a businessman before he ever got a final adjudication of his case before the Tax Court.

Mr. REED of New York. Of course, he does have the advantage of going to the Tax Court de novo, and nothing that has occurred up to the time he goes there is relevant to the case.

Mr. JONAS. That is right, it is de novo, and that merely gives him the same status as in the lower court, but it does not stay the execution. It does not avail him of anything judicially.

Mr. REED of New York. The gentleman is correct.

Mr. JONAS. After the Board has entered a finding and they enter judgment he can appeal from that. He gets a trial de novo.

Mr. REED of New York. That is right.

Mr. JONAS. It is not a stay of execution. Assuming the judgment is for \$500,000 and the Board proceeds to levy judgment and sell the man out, it may take 2 or 3 years to get a review of the case during which time the appeal is pending, and if he recovers he gets his money back plus 6 percent interest. I do not think that is right. That is exactly what the act says.

Mr. KEATING. I would like to ask the gentleman about the provision in which it is sought to do something with these 5-percenters. As I understand it if they have total fees of under \$25,000 under this bill they are not subject to renegotiation; is that correct?

Mr. REED of New York. That is correct.

Mr. KEATING. Does that mean the total fees from all sources or from any one contract?

Mr. REED of New York. From all sources.

Mr. KEATING. So that they could be getting \$20,000 from a number of different contractors and still not be subject to renegotiation under the provisions of the bill?

Mr. REED of New York. That is correct.

Mr. KEATING. Then in connection with this provision about exempting various contracts or subcontracts from the provisions of the bill as I understand the only ones which the Board has the power to examine are those specifically set up under the law? They cannot reach out and exempt any other kind of contract?

Mr. REED of New York. That is correct; except the Board does have discretion to exempt certain contracts of a secret nature, and others within a limited area.

Mr. KEATING. Are standards set up with reference to that?

Mr. REED of New York. To a certain degree; yes.

Mr. JAVITS. Mr. Chairman, will the gentleman yield?

Mr. REED of New York. I yield.

Mr. JAVITS. Would the gentleman explain to the Committee why the date of January 1, 1951, was fixed in view of the very large appropriations and undoubtedly contracts before that date?

Mr. REED of New York. That was a unanimous decision of the full committee. It was the sentiment of the committee that this was an appropriate date, keeping in mind the constitutional problem and the fact that no substantial amount of receipts from defense contractor from nonrenegotiable contracts.

Mr. JAVITS. That is a finding of fact by the committee and not a material question?

Mr. REED of New York. That is right.

Mr. JAVITS. That is except as to contracts after January 1?

Mr. REED of New York. That is right.

Mr. KEATING. With reference to these members from civilian life that means they take them in from the outside and does not mean they could name them from civil servants now working for the Government, or does it include that?

Mr. REED of New York. Yes; I believe it does, although, of course, I hope that the President will appoint experienced businessmen.

Mr. KEATING. The purpose of it is to get the views of outside business?

Mr. REED of New York. Yes. They should be high-standing men familiar with business, and not political appointees.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. DOUGHTON. Mr. Chairman, I yield such time as he may desire to the gentleman from Georgia [Mr. VINSON].

Mr. VINSON. Mr. Chairman, this bill, H. R. 1270, provides for the renegotiation of contracts entered into by those departments of the Government exercising functions in connection with the national defense. The purpose of this bill is to prevent the accumulation and retention of unconscionable and clearly excessive profits by contractors and subcontractors furnishing the Government with the materials and services needed for defense, and thereby to bring about on an over-all basis a fair and equitable level of prices for such materials and services. It is not a revenue measure; it is not excess profits tax legislation such

as that recently enacted by the Congress, which applies on a fixed and uniform basis to all taxpayers. This legislation stands on its own feet and applies only to specified contracts and subcontracts.

As the House knows, statutory renegotiation of contracts had its origin in World War II. I have always warmly advocated and supported legislation of this type, beginning with the First Renegotiation Act passed in 1942, and I strongly urge the enactment of the present bill.

The wartime renegotiation statute expired by its terms on December 31, 1945. The history of that law is one of accomplishment. Conceived to prevent war profiteering, and notably successful in that aim, it proved of great economic and morale value to the country in time of need. When, therefore, world conditions impelled us less than 2½ years later to initiate a program of expanded aircraft construction, it was deemed essential by the Congress to reinvoke this wholesome and effective safeguard in order to protect the expenditure of some \$3,000,000,000 of public funds for that purpose and certain related procurement.

The result was the Renegotiation Act of 1948, which became law on May 21, 1948. That law in its original form applied only to contracts obligating funds appropriated or consolidated by the Appropriation Act of which it was a part. Within a matter of weeks it was extended to cover the procurement of aircraft and aircraft parts when the contracts for those items obligated fiscal year 1949 funds. A year later, our military expenditures having continued to increase, the 1948 act was further broadened to cover all negotiated contracts entered into by the Department of Defense in the fiscal year 1950. Last year, we reenacted this provision to include the current fiscal year 1951.

As a result of these several extensions, the Renegotiation Act of 1948 is still actively on the statute books. It is still very much alive, indeed, and it covers large areas of procurement by the military departments. However, there are several gaps in it—until now not too important, but now very important in view of the billions of dollars which we are about to spend for defense.

What are these gaps? The 1948 act does not apply to any contracts entered into prior to May 21, 1948, although some contracts entered into prior to that date are still in production. It does not cover any contracts obligating fiscal 1949 funds for items other than aircraft or aircraft parts, although here again it is possible that some such contracts are still in production. It does not cover any contracts entered into in the fiscal years 1950 and 1951 as a result of formal advertising and competitive bidding, being limited only to negotiated contracts entered into during those years. It does not attach to any contracts for \$1,000 or less, notwithstanding the tremendous dollar aggregate of such contracts. Finally, it does not cover contracts of any Government agencies other than the Department of Defense, which is a seri-

ous deficiency in the light of the steadily increasing defense procurement activity of various other Government departments.

It is obvious, then, that the existing renegotiation law is inadequate to protect our vast current and impending expenditures to a sufficient extent. A new renegotiation law, broader in scope and closing the gaps of the present law, is needed. The bill now before the House fills that need.

On the production front, with our huge national industrial plant galvanized again to capacity output, our situation today is similar to that of the early days of World War II. Once again we are faced with the necessity for hasty procurement on an immense scale, which makes close pricing impossible. We cannot delay our procurement of essential military supplies until we can complete all of the cost studies and analyses we might otherwise be inclined to make as an incident to careful purchasing. That would be business as usual, and we are in no position to conduct our business in that idyllic fashion.

Once again, too, we shall call upon industry to produce military supplies which, by reason of their specialized and peculiar nature, are not subject to accurate costing in advance. Indeed, since the close of the last war we have developed many new weapons and items of equipment and many changes and improvements in the manufacturing processes of other items. The manufacturer of jet planes or guided missiles is unable to foretell his costs with the accuracy of an established manufacturer of fountain pens or bicycles.

Once again, too, industry will be asked to deliver supplies in quantities far beyond any normal or customary level. This, of course, will have a direct and considerable effect on production costs, the full extent of which it is not possible to determine in advance with any reasonable degree of accuracy.

These are the three principal uncertainties that made it necessary to have renegotiation in World War II. It is these same factors which make it imperative now.

It is also obvious and inevitable that the enormous Government purchasing now under way will have a sharp impact upon the level of industrial prices paid throughout the country for the innumerable parts and components that go into the production of military end items. The restraints imposed by renegotiation upon prices by preventing the retention of excessive profits will go a long way toward curbing inflationary price tendencies in this large segment of our economy. This, manifestly, is salutary.

Renegotiation is not an exact science. There is no fixed formula or yardstick for the determination of excessive profits, nor is there any fixed maximum to the amount of profits which may be realized or retained by any contractor. The present bill is patterned closely after the wartime renegotiation statute, which also formed the basis for the act of 1948. In it, as in those prior acts, renegotiation remains entirely a judgment oper-

ation. It has been successful as such. The bill lays down certain factors, virtually the same as those formerly prescribed, which must be taken into consideration by the renegotiation authorities in determining in every case whether excessive profits exist, and if so, in what amount. Beyond this there are no curbs imposed in the bill upon the officials to whom are granted the authority to make final determinations of excessive profits, subject only to review in the Tax Court of the United States.

This freedom of discretionary action is the outstanding characteristic of the whole technique of renegotiation as it has been developed to this time. It provides at once its greatest virtue and its clearest warning. Its virtue is that it affords all of the flexibility that could possibly be needed to do justice in the unlimited variety of cases that will arise. The warning that it sounds, directed to the Congress, is that only to men of the highest caliber can discretion so gently restricted be safely entrusted. It is for this reason that the bill provides for a Renegotiation Board of five members, all to be appointed by the President with the advice and consent of the Senate. It is anticipated, of course, that the Board will function at the operating level through regional or departmental or other subboards or divisions, for which appropriate powers of delegation and re-delegation are provided, but final authority within the administrative framework of the act is vested in the Board. The administration of renegotiation, both during the last war and currently, is distinguished for the high level of personnel who have been attracted, persuaded, or assigned to it. I am confident that many of these persons, and others of equal talents and attainments, will be found available to carry out the functions and responsibilities created by the enactment of the present bill.

I have found that very little is known about the actual operation of renegotiation except by those who have conducted it for the Government and by those executives of business and industry who have personally participated in its procedures. I do not pretend myself to know the intricacies of this complex and technical process, but I do know, and I think it important to emphasize before this body, that renegotiation is an operation which is broadly conceived and broadly administered. It is not a detailed process of audit and examination, contract by contract and dollar by dollar. And it is by no means a device to remedy or repair errors or inequities in individual procurement transactions. The renegotiation authorities do not reset the price of each contract after completion of performance and payment. This type of individual price adjustment, which was contemplated in the earliest days of renegotiation and from which the process derived its name, gave way almost immediately, out of obvious necessity, to over-all review of a contractor's operations for his entire fiscal year.

This basic conception is indispensable to any understanding of what renegotiation is and the way it works. All of a contractor's receipts or accruals during

this year from all of his contracts and subcontracts subject to renegotiation, including both his profitable and his non-profitable ones, and all of his costs and expenses applicable thereto, are considered at a single time in a single proceeding together with all other facts and figures pertinent to the statutory factors, and a single over-all determination is made. If no excessive profits are found to exist, a clearance is granted to the contractor. If it is determined that excessive profits were realized, a determination of the amount thereof is made and this determination is embodied in an agreement or order.

It is evident that in this type of operation the renegotiation authorities must use, not a fine-toothed comb, but a broad brush. And it is for precisely this reason that renegotiation is not designed to be, nor can it be, a substitute for sound procurement pricing. Renegotiation does no more than prevent or eliminate profits that are clearly excessive and unreasonable on an over-all basis—profits that it would be clearly unconscionable for a contractor to retain from his dealings with his Government in circumstances which precluded proper initial pricing. The sole objective as well as the net result of a renegotiation proceeding is to make certain that the Government has paid no more to a contractor, directly or indirectly, than he should in good conscience be entitled to receive in the circumstances—in a word, that from the efforts of the Government to maintain the common defense for the common good, he has not accumulated more than a fair return or over-all price for what he has done. The purpose is not to take money away from the contractor, but rather to see that not too much money has been taken from the Government under unusual conditions lacking the controls normally exerted upon prices by the pressures of competition.

This bill is a major step, and a necessary one, in our drive to achieve impregnable strength without fatally disrupting our economy. I urge its prompt passage by the House.

Mr. DOUGHTON. Mr. Chairman, I yield 10 minutes to the gentleman from Tennessee [Mr. COOPER].

(Mr. COOPER asked and was given permission to revise and extend his remarks.)

Mr. COOPER. Mr. Chairman, the bill, H. R. 1724, now under consideration is here by unanimous report of the Committee on Ways and Means. This bill is patterned very closely after the World War II Renegotiation Act, with certain necessary changes applicable to present conditions. The first section of the pending bill, which is section 101, the declaration of policy, gives a very clear and definite statement as to the purposes of this act. The act is limited in its application to 2 years, or until December 31, 1953. This is a very important defense measure, and it should be considered in connection with the defense program. It will be remembered that we had a renegotiation law during World War II, and, as I recall the figures, some \$200,000,000,000 of war contracts were awarded, and under the application of

the renegotiation program about \$11,-030,030,000 was recaptured by the Government from contractors during that period.

Your Committee on Ways and Means has given very careful and thorough consideration to this subject over a considerable period of time. Hearings were held during the latter part of the last session of Congress. Then the committee became busily engaged with the consideration of tax legislation and had to carry this over until this session. Very thorough and careful consideration has been given to the experience had under the renegotiation program of World War II. This pending bill provides for the renegotiation of these war contracts and provides certain standards that are to be considered by the Renegotiation Board. In general, the act of 1948 only applies to contracts for aircraft, aircraft parts, and certain other related provisions, but this bill is more comprehensive in its scope and application and is intended to apply to all contracts entered into by the Government during this defense period.

As has been pointed out before, the bill provides for renegotiation of contracts where the contractor receives in excess of \$100,000 during the year. In the case of subcontractors receiving fees and commissions, sometimes referred to as the 5-percenters, if their total aggregate amount reaches the sum of \$25,000 during the year, they are subject to renegotiation.

The bill contains certain very definite exemptions which are very important, and in the light of the experience had under the World War II renegotiation program it is thought by your committee that the inclusion of these specific exemptions will greatly improve the administration of this act.

First, contracts or subcontracts are exempted with producers of agricultural products, as has been explained, in the raw or natural state.

Second, contracts or subcontracts for the products of mines, oil or gas wells, mineral or natural deposits, where the product has not been processed, refined, or treated beyond the ordinary treatment for the first marketable process.

Third, contracts or subcontracts for timber which has not been processed beyond the form of logs.

Fourth, subcontractors, directly or indirectly under a contract or subcontract, to which the Renegotiation Act does not apply by reason of these exemptions.

And fifth, contracts with States, possessions, Territories, or foreign governments.

The Board is given certain discretionary power to exempt other contracts as is necessary in the application of an act of this kind.

I would like to invite attention to a provision directly in point with one of the questions asked a few moments ago. That is with respect to the efficiency of the contractor. That is stated as one of the definite standards that must be taken into consideration. By referring to page 4 of the pending bill, it will be noted that in determining excess profits there shall—it is mandatory—there

shall be taken into consideration the following factors: The first of these factors is the efficiency of the contractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower.

Then there follow six other definite standards that are here provided shall be taken into consideration by the Board; and the seventh or last of these provisions is a discretionary authority to the Board to consider such other factors as they deem appropriate to arrive at the proper degree of equity and fairness in dealing with the contractor.

The committee is of the opinion that the enactment of this legislation will result in a considerable saving to the Government in the renegotiation of these contracts during this period of emergency. As I stated a moment ago, our experience under the World War II act resulted in some \$11,000,000,000 being saved to the Government. All indications are that we may have contracts during this period of emergency even in excess of the \$200,000,000,000 that were in effect during the period of World War II; so we may reasonably expect that even a larger amount will be recovered by the Government under the application of this act than was experienced under the World War II renegotiation program.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield.

Mr. GROSS. Can the gentleman tell me why this was not made retroactive to the date of President Truman's launching us into war in Korea?

Mr. COOPER. That point, of course, was very carefully considered by the committee, and two considerations were borne in mind. First, we already have a renegotiation act that applies to at least some of these war contracts; and, second, it was thought that in the interest of fairness it should not be made retroactive too far back because the contractors had no notice; the business people of the country had no reason to expect that the contracts they then entered into would be renegotiated.

Mr. GROSS. Of course, I am sure the gentleman from Tennessee will agree that the boys who were drafted and sent over to Korea likewise had no indication prior to that time that they were going to be dumped into a war immediately, yet they are not being given the benefit of any renegotiation procedure.

Mr. COOPER. The gentleman from Iowa could not be any more anxious than I to prevent excessive profits being made during a period of war.

Mr. GROSS. One further question, if the gentleman will permit.

Mr. COOPER. With pleasure.

Mr. GROSS. Why are contracts with foreign governments exempted? These are defense contracts, are they not? This applies only to defense contracts, does it not?

Mr. COOPER. Oh, no; this is general; it applies to all contracts with the specified departments of the Government during this period of time.

Mr. GROSS. But why are contracts with foreign governments exempted?

Mr. COOPER. One reason is that under the World War II Renegotiation Act they were exempted; and, further, it was felt that we could not very well renegotiate contracts with foreign governments. How would you enforce it?

Mr. GROSS. By the same machinery you have for enforcement in the matter of any other contract. Why not?

Mr. COOPER. There was a gentleman down in my country who wanted to know why it was that some of the World War I war debts were forgiven to certain countries of the world. He said: "My goodness! Did not this Government take some security on those notes?"

After all, you are dealing with another government in these matters.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield.

Mr. JONAS. If the gentleman will permit, I have just a brief question: First of all, does the gentleman propose in his discourse to touch upon the right of appeal? If so, I can defer it, but that is the question I wish to ask now.

Mr. COOPER. I would be glad to hear the gentleman's question.

Mr. JONAS. I can subscribe to the provisions of this bill in all of its earlier phases and ramifications. If I interpret this right of appeal de novo correctly, and I am following the language of the report which says that the filing of a petition in the Tax Court shall not stay the execution of an order of the Board and that where the United States has collected amounts under the order of the Board greater than the amount determined by the Court the excess shall be refunded and interest at the rate of 6 percent paid thereon.

Mr. COOPER. I believe that provision appears on page 33 of the bill.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. DOUGHTON. Mr. Chairman, I yield the gentleman five additional minutes.

Mr. JONAS. If the bill later on explains this what apparently appears on the face of it to be a very harsh provision, I am satisfied, but if it stays as I am reading it, I am sure the gentleman from Tennessee will concede it is a vicious section of the bill. If a contractor appeared before a board and he is accused of having overreached himself to the extent of \$500,000, the board will then enter a judgment against him. He will say, "I am appealing to the Tax Court," under a trial de novo, a trial over, but no bond is given and the board would sell him out. That would do away with his working capital. He would have to wait 2 or 3 years and in that time you would ruin the man industrially and his business. It does not make sense, does it?

Mr. COOPER. There are two points I would mention in reply to the gentleman's question, and it is an appropriate one. The first is, this identical provision was included in the World War II Renegotiation Act. No difficulty was experienced and no trouble arose as is anticipated by the gentleman from Illinois. None of those appearing at the hearing raised any question about that. So the experience was such that we are not apprehensive about that matter.

The second point is that the contractor is entitled to receive 6 percent interest from the time the determination is made.

Mr. JONAS. That is true.

Mr. COOPER. Certainly he can provide ample credit to tide him over when he is receiving 6 percent interest from the Government during that time.

Mr. JONAS. I agree with the gentleman, and what has transpired in the past is all very well to be used to light our footsteps in the future through experience. The fact it did not arise thus far, however, does not by any means assure us of the fact it cannot happen—that a man cannot be put out of business by this kind of provision in the law.

Mr. COOPER. With all due deference, the experience under this program in the past has been such that we are convinced the gentleman's apprehension is not necessarily well founded.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Michigan.

Mr. HOFFMAN of Michigan. Is it possible under this bill for a contractor to receive more than the contract price?

Mr. COOPER. Well, certain relief is provided in cases of that kind under the War Powers Act.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Arkansas.

Mr. MILLS. The bill does not permit of the contractor receiving more under the terms of the bill than the original contract price. The gentleman from Michigan may have in mind a provision of the old War Powers Act which permitted a department of the Government to make a contractor whole, you might say.

Mr. COOPER. There is a provision in the War Powers Act that operates in the interest of the contractor, permitting the raising of the price or compensation, as well as reducing it.

Mr. HOFFMAN of Michigan. I would think there should be for the reason that I recall that one or two companies were put out of business by a decision of the Federal agency. Take the case where, after a contract is made and performance is started, there is labor trouble and an increase in wages that may make it absolutely impossible for the contractor to go ahead and comply with the contract at the price of his bid. There should be something to take care of that.

Mr. COOPER. We think that that provision of the War Powers Act is ample to take care of that. After all, this contractor is voluntarily entering into the contract.

Mr. HOFFMAN of Michigan. Oh, no.

Mr. COOPER. Oh, yes. He does not have to sign a contract. He does not have to sign a contract unless he wants to and unless the terms of it suit him.

Mr. HOFFMAN of Michigan. Mr. Chairman, if the gentleman will yield further, that may be allright as a matter of law and as a matter of theory. But, where is there a big industrial plant in this country that can sit back and refuse to go into war production?

Mr. COOPER. There is no compulsion by law to enter into war production.

Mr. HOFFMAN of Michigan. Unless public opinion forces him. Suppose General Motors would not enter into a contract, what would happen?

Mr. COOPER. As a matter of law they do not have to unless they want to.

Mr. HOFFMAN of Michigan. Sure, as a matter of law.

Mr. COOPER. We are talking about law here.

Mr. JAVITS. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from New York.

Mr. JAVITS. I think what is worrying us and I think what the gentleman from Iowa [Mr. Gross] tried to put his finger on, is the fact that when a soldier enlists he is giving 100 percent, and what I think worries us is the statement in the bill that seems to confine it to preventing excessive profits. Is there anything in the bill to stop a company from saying to the Government, "We will do this without any profits at all, after adequate reserves. We do not want any profits on defense work any more than the soldier in Korea." Is there anything in this bill that would prevent any company—and I think this ought to be made clear generally—from saying to the Government, "We will do this job without profit"?

Mr. COOPER. No; there is nothing in the bill to prevent that. Bear this in mind. We are all opposed to excessive profits being made during wartime. Now, some have called attention to the fact that there is an excess-profits-tax law. Well now, some years ago one of the large banks in New York, I believe it was the National City Bank, certainly not a Government agency, made a very thorough investigation and they found that the application of the excess-profits-tax law only reached about 70 percent of the excess profits that were made. Therefore we have almost one-third of the excessive profits that are made during wartime that are not reached by the excess-profits-tax law. Therefore it is necessary to have a measure of this type to help protect the interest of the Government and prevent excessive profits being made and retained by those who entered into contracts with the Government.

Mr. JAVITS. And there is nothing to stop a feeling on the part of some firms in American business to go even further than that as far as defense production contracts are concerned; we all will understand the situation of firms that may not be able to do so and no one will doubt because of that their desire to do all they can, too, in the mobilization effort, but the door should be open to those which feel they can operate without profit after adequate reserves.

Mr. COOPER. That is true.

The CHAIRMAN. The time of the gentleman from Tennessee has again expired.

Mr. REED of New York. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HOFFMAN].

Mr. HOFFMAN of Michigan. Mr. Chairman, I asked for this time only because of the remarks made by the gentleman from New York [Mr. JAVITS]. Some folks—the gentleman says he is not

one of them—seem to think there is no patriotism in industry or in the stockholders of companies which produce. I just want to call this fact to the attention of the gentleman from New York [Mr. JAVITS] that last time we were fighting a war the Ford Motor Co. had a contract but agreed to do and did the work without \$1 of profit. And, in my district in Michigan quite a number of manufacturers went along just as patriotically as anyone could without any effort to get a war profit.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. REED of New York. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. JENKINS].

(Mr. JENKINS asked and was given permission to revise and extend his remarks.)

Mr. JENKINS. Mr. Chairman, there has been no disposition on the part of the Republicans on the Committee on Ways and Means or the Republicans in the Congress that I know of to delay the passage of this legislation. In fact we are all in favor of the principle and hope that the execution of the law will be fair. But, nobody has laid claim to perfection. Nobody claims that this legislation cannot be amended and cannot be perfected. The distinguished gentleman from Illinois [Mr. JONAS] raises a very pertinent question and, if I may have the privilege to say what I want, I suggest to those who will carry this measure to the other body that they give full study to the proposition raised by the gentleman from Illinois, because the language on page 13 indicates clearly, at least by implication, that a contractor or subcontractor who has been disappointed and not satisfied with the decision of the Board can go immediately to the Tax Commission and indicate his desire to appeal from the decision of the Board and thereby stay the issuance of an execution to enforce the action of the Board. All execution would thereby be stopped. That is the only fair interpretation you can give that sentence on page 13, because the paragraph is intended to protect the contractor but it does not do so in view of the sentence on page 33.

The sentence on page 33, as I remember it, comes to us out of the old law. That sentence is a positive statement. Let me read it to you. "The filing of a petition under this section shall not operate to stay the execution of an order of the Board," and so forth. If the execution cannot be stayed the results might be as indicated by the gentleman from Chicago. For that reason, we ought to take consideration of this matter. While it may be that we cannot amend it today, and I know that the drafting force cannot do everything in a minute, I want Judge JONAS, if he will, to bear with us, and let us stick together and have this matter corrected in the other body if we can. It ought to be done. If it can be reached by an amendment in this body today I think it should be done and I will support such an amendment if the gentleman will offer it.

Mr. JONAS. That suits me.

Mr. JENKINS. This matter of renegotiation is a comparatively new propo-

sition in legislation. Those of you who are lawyers know that great sanctity is given to a contract in our law. Contracts properly entered into can be enforced. Still, that the law of the land will aid in the enforcement of valid contracts in spite of this general principle, we today will pass a law providing for renegotiation of contracts. In other words it would appear that we pass a law that will prevent the execution of a contract. However, this bill is not as harsh as it sounds, because in the preparation of the contracts the contractors are given the right and the privilege to know that they must expect renegotiation. A fair renegotiation law if fairly administered will be to the advantage of the contractor and to the Government. Renegotiation as it is applied in this bill means a recapitulation of costs and profits both. It works both ways. In the law it is specifically laid out in three or four paragraphs that the contracts will be entered into in all candor, all sincerity, realizing this one fact, that the Government is calling upon the people to produce war materials under very serious circumstances, under circumstances that require speed and require sacrifices.

Special consideration will be given to the efficiency of the contractor and his employees and special consideration will be given to any unusual risk that the contractor will be required to assume. It is not the intention of the Government to put anybody over the hotpan and take from him what he is rightfully entitled to by way of compensation. On the contrary, it is not the intention that the Government will lose by unfair and unreasonable prices and great profits, when those two situations can be reached by a meeting of the minds of both groups.

Mr. JENSEN. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I gladly yield to my friend, the gentleman from Iowa.

Mr. JENSEN. When the gentleman speaks about renegotiation of contracts, I presume he means a contract that is entered into between the Government and a company or an individual for a specific amount for the performance of that contract?

Mr. JENKINS. Yes. Any contract that has been entered into by one of the departments of the Government named in the bill such as the Army and the Navy, and so forth.

Mr. JENSEN. We have contracts entered into by the Government with plants and individuals on a cost-plus-a-fixed-fee basis.

Does this bill put a limit on the fixed fees that can be paid to a contractor.

Mr. JENKINS. This bill is a bill unto itself. It provides that the contracts may be renegotiated, and gives to the contractor every advantage that comes with expertness, with skill and efficiency, and with applicability to business, and so on. If a contractor has a continuing flow of business with the Government, that will be taken into consideration, of course, as they deal day by day, in order to get material produced for the benefit of the Government.

Mr. JENSEN. But what if it is a contract on a cost-plus-a-fixed-fee basis?

Mr. JENKINS. I cannot tell the gentleman exactly how such contracts will intermesh with this bill. My judgment is that if a contract is made positively and conclusively and independently from any continuing contract and is strictly a cost-plus-a-fixed-fee-basis contract, that it is covered and included by this bill. This bill only covers contracts made with certain departments of Government with reference to certain matters. It does not cover all Government contracts. For instance, the Post Office is not included as one of the departments to which this law will apply. It does not include contracts for the buying of stamps, paper, and things like that. Those are not included. But these military and semimilitary contracts are all included. The bill states specifically what departments are included, and then contains a provision that the President can include other departments if he so announces. That is about the best answer I can give the gentleman.

Mr. JENSEN. I thank the gentleman.

Mr. McGREGOR. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield.

Mr. McGREGOR. I appreciate the gentleman's statement, but I wonder if this group of individuals is covered by renegotiation. Suppose a contractor in competition with other contractors bids for the manufacture of a product for our Government.

Mr. JENKINS. Yes, I can answer the gentleman. It will be covered.

Mr. McGREGOR. Then, is that not putting a penalty upon the efficiency of that particular organization? I wonder if the Government would give him additional money should he lose.

Mr. JENKINS. The Government does not guarantee a profit to all those with which it contracts. If the Government has a continuance of similar contracts with one company and the contractor yields to the Government in some cases, then it might be that the Government could yield to the contractor if the contracts were somewhat interdependent. But, again, the language will prevail, because I know of a case which came up a few days ago. If that contractor enters into that contract with the Government he will be renegotiated. But as to just what may be done in the contract the gentleman has in mind, I do not know, because the language would cover it. Generally speaking, I am sure it would be included.

Mr. McGREGOR. What I am referring to is when the contractor goes in and in competition with other contractors meets the specifications and bids upon a unit price, and then you come along and renegotiate and say to him, "Because of your efficiency you have made a certain percentage of profit, yet we are going to force you to return to the Government that percentage." I think it is very unfair if you are going to make it applicable to those who bid and not make it applicable to those companies that have negotiated contracts on a cost-plus-fixed-fee basis.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield.

Mr. MILLS. The bill does apply to both types of contract. But I would like to call the attention of my friend, the gentleman from Ohio [Mr. McGREGOR] to the standards which are written in the bill beginning at line 25 on page 4 where the efficiency of the contractor must be taken into consideration in the renegotiation of contracts.

Mr. McGREGOR. Then, as I understand it, the committee determines whether or not he has been efficient.

Mr. MILLS. There is no hard and fast rule. It would have to be determined by the board, of course.

Mr. McGREGOR. In the gentleman's opinion, it will be applicable to negotiated contracts as well as bid contracts?

Mr. MILLS. Absolutely.

Mr. JENSEN. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield.

Mr. JENSEN. Is the gentleman from Arkansas [Mr. MILLS] completely satisfied that this bill as now written takes care of negotiated contracts on a cost-plus-fixed-fee basis?

Mr. MILLS. Absolutely. Certainly it takes care of that kind of contract.

Mr. JENSEN. You mean, then, that if the Government enters into a contract with an individual or company for manufacturing goods on a cost-plus-fixed-fee contract for the construction of a building or the sale of cloth goods or anything else that you might mention, if the Government determines it is proper and feasible to negotiate that contract, they have authority under this bill to renegotiate that contract?

Mr. MILLS. That type of contract is made subject to renegotiation under the bill.

Mr. JENSEN. Specifically?

Mr. MILLS. It applies to all types of contracts.

Mr. JENSEN. But it does not mention cost-plus-fixed-fee.

Mr. MILLS. No; but this is clearly within the scope of contracts subject to the bill.

Mr. JENKINS. I am glad that the able gentleman from Arkansas agrees with me. The gentleman is one of the best authorities in this House on matters relating to the laws on renegotiation of contracts. In addition to what the gentleman from Arkansas has said let me say to the gentleman from Iowa [Mr. JENSEN] and my friend the gentleman from Ohio [Mr. McGREGOR], let me say that a renegotiation of a contract will not be as drastic to the contractor as the law applicable to the collection of excess-profits taxes. Suppose this did not apply to the contracts to which my friends refer. Then they could be renegotiated for excess profits.

This renegotiation law is intended to take the place of the excess-profits tax in many cases. If your man could get clear outside of this law then he would be subject to the excess-profits tax.

Mr. HOLMES. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield.

Mr. HOLMES. There still is one point, of course, which the gentleman from Iowa must understand, and that is that this does not go below the \$100,000 minimum. But as far as covering the cost-plus-fixed-fee contracts versus the competitive-bid contract, this legislation covers both. In World War II the competitive-bid contracts were around 75 percent of the total contracts let, with about 25 to 30 percent under cost-plus.

We have information and testimony before the committee that the percentage of cost-plus contracts will be very much less than that in the coming defense program, because they propose to put most of the contracts on competitive bids. However, regardless of whether it is cost-plus or competitive bids, this piece of legislation covers it.

Mr. JENKINS. I thank my friend, the able gentleman from Washington, for his very pertinent statement.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. REED of New York. Mr. Chairman, I yield the gentleman five additional minutes.

Mr. JENKINS. Mr. Chairman, I would like to develop one other point, if I may. I say this by way of encouragement to the Members of Congress and to the people of the country. The first renegotiation law passed and put into operation several years ago was a little short of an abomination in its enforcement. Its enforcement was ruthless and in many cases was very unfair. Many persons who were not familiar with Government contracts and Government procedure were imposed upon shamefully. I am glad that this was not a universal fact in all sections of the country but it was entirely too general. Many persons and corporations were unfairly treated. The result of this unfair enforcement was that the Congress of the United States, through the Ways and Means Committee, took the matter up a second time and we amended that law. In that consideration we adopted this new provision, which provides for a hearing before the Tax Court. I am proud to say that I had a little something to do with that, because there were many people in my district who felt terribly aggrieved. The inspectors would come out into the communities and go into the offices of small companies and some large companies and arbitrarily fix their own figures, which in many cases were unjust. The law was not written so as to give an aggrieved person plain and adequate relief. In many cases the individual did not know how to protect himself or what to do. However, I am glad to say that the Ways and Means Committee came up with legislation that provided what I think was adequate and quick relief to every contractor. This legislation provided that where a contractor was not satisfied with the decision of the Board, he could go into the Tax Court and could go in de novo; the lawyers will understand what de novo means, but the average layman might not know. It means that he could go into the court and start all

over new. He could take a fresh start. He could go in and show all the evidence he had before, and everything else that he could dig up, everything that he could get that was probative, and would tend to prove his point.

This bill presently before us provides for an appeal to the Tax Court. This is a fine provision and this guarantees the aggrieved person his day in court. But the gentleman from Illinois raises a serious question as to whether he can get into the Tax Court soon enough. If this bill is not amended as I have heretofore suggested, I would advise an aggrieved person to go in immediately to the Tax Court, and file his exception to the decision of the Board. That will stop all abuses, I think. That will give the Tax Court complete jurisdiction of the matter.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield.

Mr. DONDERO. Did the committee consider at any time the question of amortization in connection with this bill?

Mr. JENKINS. Well, the subject of amortization is not fully and completely taken up, in this bill. I mean we do not try to amend the amortization law in this bill. I know that amortization will be considered, however, in making these renegotiations. I would prefer, and I think the gentleman would prefer to have amortization considered in legislation which deals exclusively with amortization. Because amortization does not deal with profits. It deals with costs. In other words a man or company that has constructed big improvements primarily to perform war contracts wants the costs of his plant amortized over 5 years. This is taken care of in a law especially drawn for that purpose. This law which we are presently considering primarily deals with profits.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield.

Mr. MILLS. I would like to call to the attention of the gentleman from Michigan [Mr. DONDERO] page 6, line 5, where provision is made for all allowances as deductions and exclusions under chapter 1 of the Internal Revenue Code to be taken, as set forth here for purposes of renegotiation. That includes amortization. The gentleman from Ohio will recall that in connection with the Revenue Act of 1950 we passed a speed-up of amortization, providing for 5 years amortization.

Mr. JENKINS. Yes. Of course, amortization applies to many contracts that are not covered by this bill. We should leave the amortization law as it is.

Mr. DONDERO. Will the gentleman yield further at that point?

Mr. JENKINS. I yield.

Mr. DONDERO. The last bill on amortization left much to be desired, because only big firms that had a staff of lawyers who could protect that firm took advantage of it and obtained their certificates of necessity. The little firms did not know how to do it, or it was not done, with the result that they went out of business or went bankrupt. That should be corrected in the new bill.

Mr. JENKINS. That is true, but that is true in life in many instances, the weak get weaker and weaker. But in the consideration of this bill our primary purpose is to encourage the production of war material of all kinds as speedily and as efficiently as possible. If to do so it is advisable to grant amortization privileges to a company that is operating under a contract that must be renegotiated then there is no reason why this privilege should not be given to him. I know that the gentleman from Michigan is absolutely right when he says that in the last war many failed to get the advantages of amortization because they did not know about it and did not know how to avail themselves of its advantages.

Mr. DONDERO. And we ought to protect the weak fellow. During the course of our consideration of the last tax bill we agreed with Members of another body that this whole question of a speedy amortization would be reviewed by our committee in connection with the tax bill of this year.

Mr. GROSS. This renegotiation is on a purely speculative basis; that is the Board can renegotiate or not renegotiate at its discretion and pleasure; is that right?

Mr. JENKINS. No that is not the purpose of the legislation. The Board is bound to renegotiate all contracts that are covered by the law. It is not bound to consider all Government contracts. It is bound to consider all Government contracts of a certain class and standard made with certain departments of the Government. Of course it might fail to reach some cases but its powers and duties are expressly set out in the bill. I do not expect any controversy on that score.

Mr. GROSS. But it is purely on a selective basis.

Mr. JENKINS. No; it treats everybody in the designated categories the same. There is no way by which any special persons will get any special favors unless some one violates his duty. The Ways and Means Committee was expressly interested in seeing that this Board acted fairly for the law provides that the board should not be packed by interested parties and it compels the President to select three out of the four members of the Board from civilian life to prevent the Board from being packed by Army or Navy officials or by any of the big contracting companies of the country.

Mr. MILLS. Mr. Chairman, I yield 10 minutes to the gentleman from Georgia [Mr. CAMP].

Mr. CAMP. Mr. Chairman, I do not know that I can add anything to what has been said heretofore except to say, in the words of the gentleman from Michigan who spoke a moment ago, that the industry of our country will accept this bill patriotically. Of course, renegotiation of contracts is as harsh a remedy as an American could imagine. Americans in their daily business lives are used to making contracts and living up to them. Here is an instance where they make a contract with their Government for a certain performance to make or manufacture a certain thing or to

furnish the Government certain supplies at a certain price; but under this harsh law which we are enacting they may at any time be called into the Government office and told that they must change the price. It is not, therefore, Mr. Chairman, a tax law by any means at all; it is a price law, a price-fixing law, and it is about the only thing that we can do in these critical times to insure our people that the Government in its haste to arm itself, to build armament to defend us, in the great rush that there will be in the production of supplies of all kinds, cannot under any circumstances know just what a just and proper price will be. We could tell you instance after instance that occurred in the Second World War where contracts were made and the contractors voluntarily came to the Department and said: "Here, the price is too high; we can make this gun or this piece of airplane at a very much cheaper price"; and we have one instance where a contractor came and voluntarily returned something like a million dollars.

I have in mind an instance that occurred in my own district, an old steel fabricator, who had furnished supplies for three wars, entered into a contract to furnish parts of Liberty ships. He came to Washington and to my office. I asked him where he had been. He said: "Why, I came up here to the Renegotiation Board." I asked him if he was satisfied, and he said, "Perfectly." I asked him who represented him and he said, "I just came myself and brought my bookkeeper along. They treated me fair; I am all right."

Most of the experience of our business people were like that, although there were people who felt that they had not had a square deal and had been treated harshly. To help those cases we have provided for appeal to the Tax Court.

This bill is even more drastic than the one we had before. Under the other law we did not renegotiate contracts that were less in amount than \$500,000; under this the limit is \$100,000. I worry sometimes over the fact that I cannot see how they can get around to renegotiating all of them. When you get down to \$100,000 you will multiply greatly the work of the Renegotiation Board.

There are certain provisions in this law that were not in the other law. For instance, I was under the impression that the established market price of the raw material on the day the contract was made should suffice, and that you should not renegotiate beyond that. But this bill goes back to the actual producer of that raw product. However, bear in mind it cannot hurt them because the bill provides that they shall have a reasonable profit and in times like these that is all any patriotic American should want.

There should be no crop of millionaires from contracts involving defense materials in this great emergency. The Committee on Ways and Means and this Congress will be commended for passing promptly at the beginning of the present session this Renegotiation Act. When you couple that action with the excess-profits law which we have already passed, and with the new tax law that the

committee will begin hearings on next week, I believe the people will willingly bear this heavy burden of taxation which must fall upon their shoulders. But if after taxing them to the extent we are going to tax them they should wake up and find a crop of millionaires growing out of these Government contracts, I do not think we would ever get over the condemnation we would receive. So I say the Congress should pass this bill promptly.

I do not know that I have anything further to add to what has been said.

Mr. CRAWFORD. Mr. Chairman, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from Michigan.

Mr. CRAWFORD. Does the gentleman know of any place in the record in connection with World War II operations where any firm was maliciously mistreated by the renegotiation machinery of government?

Mr. CAMP. I certainly do not, and I think the renegotiation groups were composed of some of the best and most reasonable businessmen in this country. Business and industry helped to supply the men who did the renegotiating.

Mr. CRAWFORD. I was going to ask if it is not true that most of these renegotiating teams, or squads as we might call them, were taken from business and were constituted by practical businessmen?

Mr. CAMP. Yes.

Mr. CRAWFORD. Inside the industry in which they were working.

Mr. CAMP. Yes; and industry as a whole was satisfied. My district is an industrial one, and I have not received a single letter or word indicating any opposition to this Renegotiation Act.

Mr. CRAWFORD. One other question. Where industry is going out manufacturing new items the like of which have never gone over a production line whatever in any place of business, does the gentleman in his experience as a member of the Ways and Means Committee know of a more equitable way in which to arrive at a fair price for the producer and a fair price for the taxpayer, the Government, than through renegotiated contracts?

Mr. CAMP. I certainly do not, and I think that explains the situation very adroitly and very clearly. It is the only way that we can arrive at what is a fair price to the manufacturer and to the country, and this, I would like to say in my closing remarks, is not a tax law but is a pricing law—a fair pricing act.

Mr. VORYS. Mr. Chairman, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from Ohio.

Mr. VORYS. I find that all contracts for raw materials, apparently, such as agricultural products, minerals, and timber, are exempt from the provisions of the bill. Why is that?

Mr. CAMP. They are not exempt except to the producer himself, and they are only exempt in their raw and original form.

Mr. VORYS. Why is that?

Mr. CAMP. Why are they exempt?

Mr. VORYS. Yes.

Mr. CAMP. Well, the producer of raw material, cotton, for instance, or wheat

or corn, does not enter into a contract with the Government. You renegotiate with the subcontractor and the contractor right down to the farmer himself.

Mr. VORYS. I do not see why you might not want to review a contract for raw materials that were overpriced as well as anything else. I just do not know why they should be exempt entirely. I can see why the Board is given this discretion and authority to exempt certain kinds of contracts, but why are they forbidden to consider raw materials?

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. MILLS. Mr. Chairman, I yield the gentleman five additional minutes.

Mr. CAMP. In the other act—and we tried to amend this act to conform to it—we fixed the raw-material price at the prevailing market price on the day the contract was entered into. But I understand that this Board will use that as a criterion in renegotiating under this act.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from Michigan.

Mr. HOFFMAN of Michigan. I would say in answer to the international statement made by the gentleman from Ohio that experience has demonstrated that the original producer never did have an excess profit. Did you not know that? He never did have.

Mr. TACKETT. Mr. Chairman, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from Arkansas.

Mr. TACKETT. In World War II we were encouraging the mining of manganese. Are the operators of those mines that are taking the chance that they need to take during the emergency exempt from this bill?

Mr. CAMP. That is considered in the general rule and in the criteria set out in the bill. That is considered, and they are allowed a profit in accordance with the risk they take.

Mr. MILLS. Mr. Chairman, if the gentleman will yield, as a matter of fact, manganese ore, which has not been processed, is exempt under the terms of the bill.

Mr. CAMP. That is right. All raw materials are.

Mr. TACKETT. Mr. Chairman, if the gentleman will yield further, the gentleman says, though, that manganese ore production comes under the general category. That was the situation in World War II, and you will recall that all the contractors were taken care of in this country except those which produced the vital metals that were needed in war production.

Mr. MILLS. Mr. Chairman, will the gentleman yield at that point?

Mr. CAMP. Yes.

Mr. MILLS. There was no producer of any vital material renegotiated in the last war.

Mr. TACKETT. That is right.

Mr. MILLS. All raw materials from the mines were exempt from renegotiation in the last war.

Mr. CAMP. Well, they are under this bill.

Mr. MILLS. Exactly.

Mr. TACKETT. Well, should they be? That is the question.

Mr. CAMP. Yes; they should be.

Mr. TACKETT. Why should they be, if we are going to encourage them to mine these metals, and then they go out and produce and are unable to make a fair return? Why are they not entitled to renegotiation?

Mr. CAMP. The reason raw materials and agricultural products are exempt is because their price can be ascertained any minute of any day on stock and commodity exchanges all over the world; not only in America, but all over the world. You can go out there right now and see what cotton is worth in Liverpool, Memphis, New Orleans, or Savannah. It is ascertainable, and they can be satisfied.

Mr. TACKETT. I am in error. I was thinking that this legislation was not only for the purpose of protecting the Government but also to protect the production contractors. I now see that this is one-street legislation needed to protect the Government and that other legislation will be needed to encourage mining of vital metals.

Mr. CRAWFORD. Mr. Chairman, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from Michigan.

Mr. CRAWFORD. The gentleman just developed one thing that I wanted to bring out. Supposing corporation A owns 100,000 acres of fine timber and the Government wishes to take a certain board footage off of that company's property. Also, suppose the price is set on such products at the time through the price control machinery. There would simply be no sense in renegotiating the contract, would there?

Mr. CAMP. That is right. We discussed it in committee. The law itself is as far back as you can go there. You cannot go to the price that man paid for a tract of timber 20 years ago. That is capital gain, that is not contract profit.

Mr. CRAWFORD. On the other hand, if a manufacturer of wood products makes a contract with the Government to build 1,000,000 cartridge cases, where he goes to that company and buys the lumber, then the cartridge case contract is subject to renegotiation, because there is no fixed price on cartridge cases.

Mr. CAMP. That is right.

Mr. REED of New York. Mr. Chairman, I yield 10 minutes to the distinguished gentleman from Nebraska [Mr. CURTIS].

Mr. CURTIS of Nebraska. Mr. Chairman, one of the most important pillars in our entire private enterprise system is the right of contract, the right of people to enter into a contract and have that contract enforced and have it not nullified by any government anywhere. Renegotiation in a very real sense violates that principle. It says in effect that even though our citizens enter into a contract with the Government, if after it is over the Government feels that too much money has been made the contract can be renegotiated or rewritten. I believe that in a period of national emergency that violation, if you choose to call it that, of the principle of contract is necessary. It is a sort of necessary evil. But

certainly it should be administered with care and justice and the people who administer it should be watched constantly.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. CURTIS of Nebraska. I yield to the gentleman from Michigan.

Mr. DONDERO. What would happen if the contractor sustained a loss as a result of the contract?

Mr. CURTIS of Nebraska. There is no relief for him.

Mr. HOLMES. Mr. Chairman, will the gentleman yield?

Mr. CURTIS of Nebraska. I yield to the gentleman from Washington.

Mr. HOLMES. Under the War Powers Act there is provision to take into consideration the losses experienced by these contractors under specific contracts. They are negotiated up or bailed out from their loss on a reasonable base period.

Mr. CURTIS of Nebraska. That applies to only a few. For instance, out in my State many farmers near a flood-control project have sold their land to the Government. It is very likely the Government may find oil under that land. Can those farmers come in and say, "Here, the Government got too good a bargain. Can we not renegotiate the sale price?" No, it is a one-way street running in favor of the Government.

I do not want to be misunderstood. In this time of increased national defense buying it is necessary that the Government do a lot of blind contracting. Time is important. They must go to the manufacturers and say, "We want this and we want it now." Neither the manufacturers nor the procurement agencies have any idea what would be a just price. It may be that a price may appear to be a just price now, but if the volume is increased several times or several hundred times a fair price would be much lower. So it does seem that it is proper for a sovereign government to say, "We are not going to make these contracts final. They will have to be rewritten or renegotiated in the light of all the costs."

I am going to support this bill, but I believe if there ever was a measure where they should follow established principles of law and accounting, where everyone should be treated the same, it is this law. It does offer possibilities for favoritisms. I hope the Congress under the power which it has asserted for itself in the Congressional Reorganization Act will keep a very watchful eye on the operation of this law.

This law speaks too much about profits and not enough about prices. There is a tendency in the bill to say that the contractor or manufacturer who sells something to the Government, even though the Government pays too much for it, if he does not show a profit it is O. K. In other words, in order to get proper pricing they have accepted as a measuring stick the amount of profit. Ordinarily that may be all right, but if you have a very inefficient manufacturer, one whose plant and whose management is not what it should be, and if the salaries of the officers have been high for years they probably can charge the Government too

high a price for some item and not be renegotiated. If the auditors find there has been no excess profit the taxpayers have no relief even though the Government paid too much. On the other hand some small well-managed companies with modest salaries for their officers, with good officers who watch everything, who are diligent and who cut down the cost, may sell that same article to the Government for a much lower price and because they do show a substantial profit they are renegotiated. I hope in administering this law the Government will encourage efficiency and not encourage inefficiency, that they will encourage the holding down of costs and not put a premium on that contractor or manufacturer who makes his costs very high. It should be construed as a pricing law rather than as a profits law. In other words, the Government should not pay more than something is worth even if the contractor by reason of his own inefficiency does not make a profit. By the same token if a successful and careful manufacturer reduced the prices way way below all other competitors, he ought to have a little reward for that because the Government benefits. The Government buys cheaper and he will pay more taxes under our excess-profits-tax law and the ordinary tax laws.

This bill differs from our previous law in several particulars. It sets up an independent board, a five-man board, the appointment of which must be made with the advice and consent of the Senate, and not more than two of them are to be military men. They have authority to delegate and redelegate and redelegate the authority granted in this bill, so that the Government agents who go into various manufacturing plants of the country will have authority to speak for the United States Government and determine whether or not the contract should be rewritten. The old law was more or less silent on the question of interest, although interest was charged in some instances where the manufacturers doubted the propriety thereof. This law spells it out a little more. One rather small change, but yet important, is that this new bill brings within the purview of renegotiation the acts of the so-called 5-percenters, those people who are engaged in contract brokering. After all, they get their money from the taxpayers of the United States. If an honest, patriotic manufacturer seeking to produce an efficient and low-cost defense item for the Government is subject to renegotiation, certainly that group here in Washington, some of whom render service and are honest, but some of whom are merely engaged in peddling influence, should not be permitted to gain great sums from out of the defense program and not be renegotiated. This law brings the contract brokers within the purview of the renegotiation if they make in any one year in excess of \$25,000.

I believe that the power vested in this bill is so great that there should be an appeal beyond the appeal provided to the Tax Court. Objection has been raised to that. We are told that it is an administrative matter; that it is a matter that calls for discretion to deter-

mine how much the Government should pay for a certain article. Nevertheless, I feel that we are on such dangerous ground in tampering with the right of contract that it should be safeguarded in every way and that anyone aggrieved should have access to the courts of the land. I regret that the bill does not so provide. My amendment for such appeals, as well as my amendment to place ECA contracts under the renegotiation law, was rejected by the committee.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. CURTIS] has expired.

(Mr. CURTIS of Nebraska asked and was given permission to revise and extend his remarks.)

Mr. REED of New York. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. MARTIN].

Mr. MARTIN of Iowa. Mr. Chairman, I favor the enactment of H. R. 1724 which is now before us. Generally, throughout the country, business and industrial leaders recognize the need for effective legal provision for the renegotiation of defense contracts. The American people in general look to the Federal Government to provide a stronger instrument for renegotiation of defense contracts in order to eliminate excessive profits from war production. The present law and procedures are inadequate. They do not apply to all defense orders placed by the Department of Defense, Army, Navy, Air Force, Commerce, the General Services Administration, the Atomic Energy Commission, and other similar agencies, and they do not reach many contractors and subcontractors who should come within the jurisdiction of the renegotiation law.

Our great task in developing H. R. 1724, to provide for the renegotiation of contracts, has been to prevent excessive profits and high costs on defense business without discouraging expansion of production and the efficient use of manpower and materials in our preparedness program. Some regard had to be given to the practical limitations of administration and enforcement. For example, it is provided that a contractor or subcontractor shall not be renegotiated for any year unless he has received or accrued more than \$100,000 in the year from such source, and subcontractors whose income is derived from certain fees or commissions will be renegotiated for any year in which they have receipts and accruals of \$25,000 or more from such source. A further example is the case of production of raw materials on our farms and in our mining industry which could not be brought under renegotiation without creating such an immense load of work that it would jeopardize the success of the administration of the entire program of renegotiation. Furthermore, the importance of food and fiber and of the products of mine, oil or gas well, or other mineral or natural deposits makes it necessary to encourage expansion of such production in order to build our Nation's strength to withstand the impact of war.

- You will note that section 101, starting on page 1 of the bill, sets out the declaration of policy. This declaration of pol-

icy recognizes and declares that the sound execution of the national defense program requires the elimination of excessive profits from contracts made with the United States and from related subcontracts in the course of said program and that this policy of the Congress, in the interest of national defense and the general welfare of the Nation, requires that such excessive profits be eliminated as provided in the proposed legislation. This declaration of policy limits the renegotiation to contracts for the procurement of property, processes, services, and the construction of facilities necessary for the national defense. It does not contemplate the renegotiation of all contracts made by all Government departments or agencies, but only those contracts and subcontracts made in the course of the national defense program.

However, as pointed out by the gentleman from New York [Mr. REEB], the provisions of section 102 are much broader and, unless changed by amendment, may be construed to apply to all contracts with the departments and agencies named.

Broad powers are given to the Renegotiation Board to exempt contracts or subcontracts which fall within the category specified in the bill. This has been done in the interest of reducing the work load of renegotiation at some points so that the major effort of the Board and its staff can be devoted to renegotiation of contracts and subcontracts in which the need for such renegotiation is greatest.

Some changes have been made in the mandatory exemptions as compared with the mandatory exemptions in the Renegotiation Act of 1943. One of these changes is found in section 106 (a) (4) on page 26 which sets out a more exact point for determining the exemption of contracts or subcontracts for timber and limits the exemption to timber which has not been processed beyond the form of logs and limits the exemption also to contracts or subcontracts made with the owner of the timber property or with the producer of the logs.

Another change is made with regard to the product of mines. At the suggestion of Under Secretary of War Robert Patterson, section 403 (i) (1) (B) of the 1943 act extended mandatory exemption to "any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, which has not been processed, refined, or treated beyond the first form or state suitable for industrial use." You will note that section 106 (a) (3), which appears on page 25 of this bill, extends the mandatory exemption to "any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, which has not been processed, refined, or treated beyond the ordinary treatment processes normally applied by producers in order to obtain the first commercially marketable product, but only if such contract or subcontract is with the owner or operator of the mine, well, or deposit from which such product is produced. The term, 'ordinary treatment processes,' means, in the case of the product of a mine, well, or

deposit with respect to which an allowance for percentage depletion is provided by section 114 (b) (3) or (4) of the Internal Revenue Code, those processes which are taken into account under such section in computing gross income from the property, and in the case of any other product such term means such similar processes as may be prescribed under regulations promulgated by the Board."

If the proposed change in this mandatory exemption does not have an adverse effect on our national defense, I have no objection to its inclusion in this legislation, but since the adoption by the committee of this change in the exemption I have not had an opportunity to discuss the change with owners or representatives of our domestic mining industries nor with our Government officials who are charged with expediting domestic mine production and acquiring mine products for our national defense preparedness program. It is my hope that this change will receive very careful study and consideration by the other body to the end that Congress may avoid enactment of this provision if such study and analysis should establish that this provision may discourage or retard domestic production of these items at the very time they are most needed in our preparedness program. I am deeply sorry that the limitation of time did not permit the Committee on Ways and Means to make a more thorough and more careful study and examination of the possible impact of the proposed change on the domestic mining industry.

I am quite sure that Congress will be willing to consider amending this legislation whenever it is shown, either before its enactment or subsequent thereto, that this provision may have an effect detrimental to our national defense.

We had extensive hearings on this legislation, but the change I have referred to regarding mines and mine products was made in the very last part of our action in developing the bill, and I know that the committee is unanimous in wanting to do the right thing in building the defense preparedness program. We just did not have time to view it thoroughly after we made the proposed change in the bill.

Mr. BAILEY. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Iowa. I yield to the gentleman from West Virginia.

Mr. BAILEY. In the hearings before the committee were there present representatives of the mine operators and unions?

Mr. MARTIN of Iowa. Oh, yes. They advocated very strongly the retention of the wording of the 1943 act.

Mr. BAILEY. Which has been changed?

Mr. MARTIN of Iowa. Exactly; and I want to know, in fairness to our defense program, what the actual impact of this change may be. I am not qualified to speak here and now about the extent of the effect of it or what it will do. If I had the time I would like to go into a very careful review of it with the owners and operators of our mining industry,

and also with the Government authorities who have the responsibility for building up our preparedness program. I know the committee has that desire also. My suggestion is not adverse to the committee's attitude in any way on this point. I only hope it will be brought up more fully in the other body.

Mr. JOHNSON. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Iowa. I yield to the gentleman from California.

Mr. JOHNSON. What, if any, provision is made in this bill for contractors to write off part or all of their capital investment? I am thinking about a case like this: There is a shipbuilding concern in my district that operated during the last war, building ships for the Army. Since then the plant has been idle, but it is now being revamped at considerable expense to the contractor. He anticipates again entering into defense contracts. The cost of modernizing this plant will only be useful in the execution of defense contracts. There will probably be no use for the modernization for which the contractor expended money, after he has executed such war contracts as he may get. Consequently I am wondering if he will be able to recover a part or all of those costs, as obviously ordinary depreciation allowed by the revenue laws would not fit his case. All his profit would be eaten up by the capital expenditure which he had made to be able to take care of these defense contracts. Could the gentleman enlighten me on this problem and if possible point out what such a contractor might expect and specifically in what part of the law the appropriate relief, if any is due in such a case, is authorized?

Mr. MARTIN of Iowa. The gentleman from California will find a provision in section 103 (f) applies to the situation he has outlined. It appears on page 6 of the bill as follows:

All items estimated to be allowable as deductions and exclusions under chapter I of the Internal Revenue Code (excluding taxes measured by income) shall, to the extent allocable to such contracts and subcontracts, be allowed as items of cost, except that no amount shall be allowed as an item of cost by reason of the application of a carry-over or carry-back. Such costs shall be determined in accordance with the method of cost accounting regularly employed by the contractor or subcontractor in keeping his books, but, if no such method of cost accounting has been employed, or if the method so employed does not, in the opinion of the Board, or, upon redetermination, in the opinion of the Tax Court of the United States, properly reflect such costs, such costs shall be determined in accordance with such method as in the opinion of the Board, or, upon redetermination, in the opinion of the Tax Court of the United States, does properly reflect such costs.

I commend the gentleman from California for his alert watchfulness on this point because it is of far-reaching importance in our gigantic preparedness program now getting under way.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. SIMPSON of Pennsylvania. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, it is unfortunate that we must have a renegotiation law. I

agree we should have it because of the situation in which we are placed as we proceed to rearm ourselves in preparation for war or, better yet, to prepare ourselves so that we may avoid war.

Renegotiation is temporary in nature, we hope. At best it can be said to show a weakness in our taxing laws which fail to take back from the individuals the excessive earnings they may have secured; at the same time it is an admission of weakness, a necessary weakness perhaps, but nevertheless a weakness and a failing and fallacy on the part of our contracting agencies of Government, representing as it does the taxpayers, based upon a showing of their inability to arrive at a fair and an equitable contract price for the products of industry. It causes consternation so far as the contractor of the job is concerned, because he never knows until perhaps 2 years after the completion of the contract just how much money he will have resulting from the contract, money which he may need to fulfill existing obligations or which he may need to provide for necessary expansion. Yet considering all of those factors, the committee, without any serious objection anywhere, brings this bill before you because we know that haste is necessary in order to secure quick rearmament of the country. It would do no good to sit idly by and let time pass as we seek one way or the other to determine what is a fair price for a product that we have not been manufacturing in the past, a product which is essential to the war effort.

So, we give the go ahead signal to industry, and the principals of the contract get together and after certain negotiations determine upon the best price they can which would induce the manufacturer to go ahead and produce the article, he agreeing that the contract shall be renegotiated under certain circumstances. I know, and it has been pointed out to you, that there is a grave danger that the man who operates the company which is most efficient, the company which stretches every point, the company which in every modern way endeavors to produce more quickly and cheaply, may be renegotiated downward and at the same time the inefficient producer producing that same article may not have his profits cut. However, the Board, which will be headed by a group of men who are confirmed and approved by the Senate after having been named by the President, must be presumed to be men who, first of all, want the rearmament program pushed to the utmost, must be men who are presumed to have the interest of our entire national economy at heart. It is the belief of the committee that the bill will be handled in a fair and equitable manner, and consequently we come before you with that bill and ask its adoption.

There is one phase of the bill that does not please me. I shall not offer an amendment, but there is a subject deserving further consideration. That is the question of whether the bill should be amended to exempt nondefense contracts. For many years we have adopted in our Government the principle of taking bids on contracts, particularly on

these items that are everyday purchases. I see no reason whatever in providing that those items should be the subject of renegotiation. I think renegotiation, an unusual and an abnormal procedure, should be confined to those instances where it can be justified on the ground that the Government has been unable to reach a firm basis for a contract. In other words, I think the items which historically have been the subject of the ordinary type of contract between the Government and the American businessman should not be renegotiated under the guise that they are a part of our national defense program.

To continue that provision in the bill would impose a burden which would be, I believe, entirely unreasonable upon those charged with administering this bill, which is a most difficult one to administer. It would, perhaps, induce a measure of carelessness on the part of the Government agencies in issuing contracts in the original instance. We should keep those men, dealing as they are now with the items they have been purchasing in the past, on the firm basis of the customary way of making contracts. They should use their best judgment, deal across the table with the manufacturer who is under no particular pressure at this time to speed up his production. Let us make a firm contract in those instances. Let us direct that the independent board under this act shall confine its efforts to bringing back into the Treasury the truly excessive earnings which are the result of poor contract making, which is necessary in this time of tension by reason of the pressure upon the Government agencies. They must remember always that those agencies are called upon to secure firm contracts for the manufacture of articles never before seen or heard of; remember that no manufacturer knows what it will cost to make that article. Let us remove from the scope of this bill those items which we have been buying for years, and permit the men who are the renegotiators to confine their efforts to the items which are a part of our national defense program. I think such an amendment would be unobjectionable to the Government agencies which are interested in this bill. I think certainly the efficiency of the bill will be greatly improved. I think the public will be more willing to accept the principle that a contract once made can be reopened and renegotiated if it is confined to the principal cause for this bill's being here, namely, that in a time of pressure due to the frailties of mankind and the lack of knowledge about the matters under contract, and because of haste in particular, a contract has to be entered into which is not final in its conception. Let us confine this bill to that type of contract. Thereby industry will have a measure of certainty it cannot have under this bill, and thereby, I am sure, the efficiency of the Renegotiation Board charged with administering this act will be greatly improved, and the return to the Treasury of money belonging there will be expedited. Let us not tie the hands of the Board by directing that on any and every contract exceeding \$100,000 the Renegotiation

Board shall send their investigators to determine whether the price was a fair and an equitable one.

Mr. EBERHARTER. Mr. Chairman, will the gentleman yield?

Mr. SIMPSON of Pennsylvania. I yield to the gentleman from Pennsylvania.

Mr. EBERHARTER. There is something in what the gentleman says, but I think the bill does give the Board discretionary power. As is stated on page 4 of the report:

The Board is given discretionary authority to exempt contracts or subcontracts which fall within the categories specified in the bill. These include contracts to be performed outside the United States, certain contracts and subcontracts where the profits can be determined with reasonable certainty when the contract price is established.

There are a couple of other provisions there where the Board is given discretion.

Mr. SIMPSON of Pennsylvania. That is correct. There is discretion in the Board to exempt any contract.

Mr. EBERHARTER. So the Board is not under the compulsion of renegotiating any contract whatsoever.

Mr. SIMPSON of Pennsylvania. I thank the gentleman for the correction. He is right in that respect. The Board could exempt any one of these. I see no reason, however, why the statute itself should necessitate a contractor's being uncertain about his status, and I see no reason, further, why we should not simply eliminate nondefense contracts.

Mr. REED of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. VAN ZANDT].

Mr. VAN ZANDT. Mr. Chairman, I ask unanimous consent to proceed out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

"YES-MAN PSYCHOLOGY"

Mr. VAN ZANDT. Mr. Chairman, a practice which strikes at the very heart of our national defense is embodied in the recent directive of the administration which restricts officers of our Military Establishment in giving to Congress and the American people valuable information based on their years of experience.

On November 15, 1946, in a memorandum to the Director of the Budget, the President said:

I wish you would include a reminder that I shall expect them and their subordinates to support only the President's estimates in hearings and discussions with Members of Congress.

The President was addressing himself to the heads of all Government agencies, including the Military Establishment.

On January 20, 1951, the following confidential directive was issued:

Officers may, upon their own responsibility, and at their own discretion, make remarks concerning unclassified matters on foreign or military policies to selected groups for background purposes only and not for publication without obtaining prior clearance, provided that their remarks are confined to the bounds and policies which

have been publicly announced by the White House, State or Defense Departments.

Mr. Chairman, in 1946 the directive said support only the President's estimates. On January 20, 1951, the directive said confine your remarks to the bounds of the policies which have been publicly announced by the administration. This is an out-and-out gag on our military spokesmen. No wonder we were unprepared for Korea.

Let us not forget the shameful treatment accorded Admiral Louis Denfeld, the transfer of Admiral Joel T. Boone, Gen. Orville Anderson, and others, simply because they spoke their minds and gave to the American people the results of their years of experience in military life.

Mr. Chairman, this "yes-man psychology" is the ruination of good government and especially of our national defense.

Mr. REED of New York. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. WERDEL].

Mr. WERDEL. Mr. Chairman, I take this short time for the reason that I believe a clear statement should appear in the RECORD while his bill is being considered, advising the American small-business man that there is nothing in this bill which permits renegotiation of Government contracts for his benefit. The businessman who has lost money in his contracts with the Government must still find in the War Powers Act his rights to relief if they exist. I believe there is a general false belief that the bill we are considering purports to make corrections for all inequities experienced in the last war in regard to renegotiation of contracts, including those where the contracting party lost money. This is not the case. The rules and regulations under the War Powers Act, which caused so much damage to small contractors and subcontractors because of technicalities, are still in operation and effect. As an example, the rule of the last war that executives' salaries would be considered as costs of a contractor, if his business entity was in the form of a corporation, but living expenses of a partner doing business as a partnership entity would not be considered as costs, is still in effect. The record should be clear today that businessmen seeking Government contracts or seeking a subcontract from a larger business concern, should seek advice from their attorneys in regard to their business entity and what their rights may be, in the event of loss under the War Powers Act.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. REED of New York. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. JAVITS].

(Mr. JAVITS asked and was given permission to revise and extend his remarks.)

Mr. JAVITS. Mr. Chairman, the gentleman from Michigan [Mr. HOFFMAN] a little while ago brought up the question of what I think about the patriotism of American industry. I made the statement I did because I wanted to show that there was in the American private

economy a great area of patriotism and that many companies are, I believe, ready to give up all profits on defense contracts after providing for their reserves.

I would like to emphasize one further point: The productivity of American industry will determine whether or not we will defeat communism because, unless our private economy can produce 25 percent more in the next 5 years than it produced in the last 5 years since 1945, we are in grave danger of losing the grim struggle to defend freedom in which we are engaged. I am confident that the American private economy—workers and management alike—can do it.

It is this kind of support evidenced on the floor of the House by members of such diverse opinions as the gentleman from Michigan and myself which may indeed help American industry to accomplish this goal for our benefit and for the benefit of free peoples everywhere.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. DOUGHTON. Mr. Chairman, I yield 15 minutes to the distinguished gentleman from Arkansas [Mr. MILLS].

Mr. MILLS. Mr. Chairman, I am sure the members of the committee have already had the opportunity of reaching a fair understanding at least, of the provisions of the bill before us today. We have heard it adequately explained by those who preceded me. I do not desire to go into a detailed explanation of all the provisions of the bill within the 15 minutes allotted to me. However, I would like to take up one or two points about which there appears to be some question in the minds of some of those who have spoken.

All of us will recall that this idea of renegotiation is not a new thing. It has never been treated as a partisan matter. I remember the first suggestion for renegotiation prior to or during World War II was made by our former colleague from South Dakota, who is now in the other body, Mr. CASE. The gentleman from Ohio [Mr. JENKINS] and I served on a subcommittee which prepared amendments to the Renegotiation Act of 1943. A great deal of credit is due to the gentleman from Ohio [Mr. JENKINS] for the method of appeal provided in the World War II law and many of the other wholesome provisions of that law.

This bill that we have before us today is based largely on the old 1943 Renegotiation Act, plus experience gained by those who renegotiated contracts during World War II. The big difference, at least in my opinion, between our World War II renegotiation law and the bill before us, is the Renegotiation Board itself. In the World War II act, because of assurance given our committee by Judge Patterson, who was then Secretary of War, that the renegotiation of contracts would be conducted in an independent manner, it was not felt necessary to make an independent agency of the Renegotiation Board. However, I felt then that it should have been independent, and I felt during the discussion of this present bill in the committee that

the Renegotiation Board itself should be independent. In other words, those who renegotiated contracts should not be under the control of the same group in either the Air Force, the Army, or the Navy, who procured the articles in question in the first place.

This Board is to be appointed by the President, by and with the advice and consent of the Senate. It is to consist of five members, not less than three of whom must come from civilian life. As I understand, the President may appoint any three civilians he desires to appoint. They may come from outside Government or they may come from within Government. It is not intended by this limitation that the President shall appoint two from the armed services. He may appoint all five from civilian life, if he so desires. To me, that is an improvement over our World War II renegotiation law.

We hope that this provision will mean uniformity of decisions, uniformity of regulations, and uniformity of application of renegotiation. During World War II we heard that it was possible for one contractor to receive one kind of treatment at the hands of the Navy renegotiation and entirely different treatment at the hands of the Army and the Air Force. It is our hope that there will be uniformity as a result of this independent agency in the executive department handling the renegotiations. A question has arisen as to whether or not there should be any exceptions or exemptions whatsoever to the authority in the legislation to renegotiate contracts.

Mr. HINSHAW. Mr. Chairman, will the gentleman yield?

Mr. MILLS. I yield.

Mr. HINSHAW. May I suggest to the gentleman that in the course of the study made by the Air Policy Board a while back we found that contractors dealing with the various branches of the service and, of course, also that the General Accounting Office and the Bureau of Internal Revenue had in effect to keep five separate books because of different aspects of the situation. I am wondering if it would not save a great deal of expense to the Government if we could eventually agree upon one form of accounting?

Mr. MILLS. That is one of the things that should be carefully considered. Certainly we are endeavoring to overcome that in this bill.

There is the right, as the gentleman knows, in section 107 (d) of the bill to delegate authority; that is, the Board may delegate its authority, its obligations, and responsibilities except that it cannot delegate its authority to make rules and regulations. The Board may delegate back to the Air Force or to the Army or to the Navy the responsibility for renegotiation of those contracts which the agency makes. But in the process of renegotiating those contracts the agencies will be controlled and they will operate under rules and regulations which are uniform; and, of course, the Board itself will have the final authority in the event it desires to review any such contract or renegotiation, or if the con-

tractor, himself, wants to go to the Board.

Mr. HINSHAW. Could the gentleman give any assurance that those regulations will be uniform with the Internal Revenue Bureau as well as the General Accounting Office?

Mr. MILLS. I do not believe I follow the gentleman, but the Internal Revenue Bureau is not in this now.

Mr. HINSHAW. No, but the gentleman will recognize that the Internal Revenue Bureau figures out the taxes to be paid on profits on the contracts.

Mr. MILLS. There should be uniformity as far as costs are concerned that are allowed for renegotiation and costs that are allowed for tax purposes. On page 6 of the bill we suggest that all items of cost allowable under the tax laws will be allowed for renegotiation purposes. But I do not know that you can say that there would be absolute uniformity between all of the operations of the renegotiation law and the application of the internal revenue laws.

Mr. HINSHAW. I think the gentleman can see how much cheaper it would be to do the accounting for all concerned if only one set of books need be kept.

Mr. MILLS. That is true, and we hope that only one set of books will be necessary for tax purposes, as well as for purposes of renegotiation; it would be much cheaper for the contractor.

When my friend from California arose I had started to say something about this question of exemptions. In the 1943 act, the old World War II law, we provided specific exemptions for raw products grown on the farm, and those produced from mines and oil and gas wells. We did that at the request of those people charged with the responsibility of renegotiating these contracts. They said then it was administratively difficult, if not impossible, to go back into all of these subcontracts involving raw materials, and to renegotiate them because the contractor himself might be producing in part for Government and in part for civilian use, and the job of allocating which raw materials went into war contracts and which went into civilian goods was such a problem that they did not at that time want to undertake it. In this bill we have not gone as far as we did in the World War II law with respect to the exemption of such products. Under this bill, the man who produces on the farm, produces from the mine, or produces oil or gas would, in general, be exempt from renegotiation up to the first commercially marketable state. In the World War II act, however, the exemption applied to anyone who sold these raw products whether he produced them or not. We have limited it now to the producer; so it is a little more restrictive in that sense. We do not permit our definition of a raw product to go as high up the scale toward the finished product as was the case in the World War II act. This is of great importance, in my opinion, for in the case of the World War II act we found that we had exempted specifically pig iron used in the manufacture of steel, but that, of course, is not what we had intended to do. I think perhaps those applying the Renegotia-

tion Act went further in their interpretation of the language than we ever intended when we wrote the law itself.

Mr. JENKINS. Mr. Chairman, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from Ohio.

Mr. JENKINS. Does not the gentleman think that he and all of us would be safe in saying that the committee has profited by all of the mistakes that were made before and that this bill is an honest effort to cure all of them and to make this program more profitable to the Government and more easily administered?

Mr. MILLS. I think the gentleman from Ohio has reflected the viewpoint of every man on the committee. There are certain provisions that I may disagree with or that someone else may disagree with, but on the whole the bill is greatly improved from all viewpoints and in all respects over the law which we thought was reasonably satisfactory in World War II.

Mr. EBERHARTER. Mr. Chairman, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from Pennsylvania.

Mr. EBERHARTER. I just want to call attention to the fact that, in my opinion, this is a much better measure than was in existence during the World War II period, and one of the most important changes is the change just mentioned by the gentleman from Arkansas wherein he called attention to the restriction on the exemptions. We felt that the exemptions went a little bit too far under the World War II act. That improvement and the improvement in the board are the two main things which the membership should be interested in.

Mr. MILLS. The gentleman agrees, then, that this bill should be passed by the House in its present form?

Mr. EBERHARTER. It is mandatory that the House pass it promptly.

Mr. MILLS. Mr. Chairman, the gentleman from Pennsylvania [Mr. SIMPSON] has raised a point that concerns a lot of people; that is, whether or not this legislation should refer to and include all types of Government contracts with the seven agencies mentioned in the bill or whether it should be limited to defense contracts. Let me talk just a moment on that, since the gentleman from Pennsylvania has informed me that he will not offer an amendment to prescribe such a limitation.

In the first place, I do not know, and I doubt that any Member is in a position now to properly describe what is and what is not a defense contract. We say contracts with defense establishments, the Army, Navy, Air Force, Atomic Energy Commission, the Department of Commerce, which is the Maritime Administration—that is what we are getting at in that Department—and with General Services Administration which does do some buying of raw materials and other things that go directly into the war effort, as I understand it. We specify certain departments of Government that deal almost exclusively in defense contracts. But if we would say in this bill that there shall be no renegoti-

ation of any contract except a defense contract, then it is necessary, as I take it, for us to define what we mean by a defense contract. What would be a defense contract? I will ask any of you gentlemen who have worked with this a lot longer than I have on the Ways and Means Committee and the Appropriations Committee where you are making appropriations for the defense, What is a defense contract?

If we thus limit the application of the bill to a defense contract without defining what we mean by "defense," have we actually accomplished anything, because the definition, unless we define it, will be left to this renegotiation board? I am glad the gentleman from Pennsylvania is agreeable to passage of the bill by the House in its present form applying to all contracts entered into by these specifically named departments in order to avoid any possibility of ambiguity as to what we intend or mean, and especially in view of the fact we have never defined, or we have never limited renegotiation in the past to strictly defense contracts or to war contracts. Heretofore we have always said that contracts with certain departments would be subject to renegotiation.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. If I read this bill correctly, it really gives the Board established under the provisions of this bill two different authorities: One is to renegotiate contracts; the other duty or responsibility or right or privilege, which may be more important in the finality, is the grant of authority to the Board contained on page 17 to decide what contractors shall come under the provisions of this act and what provisions shall not. Is that not correct?

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. DOUGHTON. Mr. Chairman, I yield the gentleman five additional minutes.

Mr. MILLS. The gentleman from Ohio will remember that there was some discretionary power to exempt contracts and types of contracts in the old law. This time the only additional discretionary authority we have given is in regard to contracts of a secret nature, involving the security of the country.

Mr. BROWN of Ohio. I can remember a great many war contracts made in the last war that perhaps it would have been better for some people if they had been kept secret, and I am just a little fearful of this secret contract arrangement.

Mr. MILLS. What is contemplated is a contract that involves atomic energy or the sale of uranium, or some such contract of that sort where information cannot be made public in regard to the contract. The gentleman from Ohio understands the situation.

Mr. BROWN of Ohio. I understand the theory behind it, but here is a Presidential board, named by the President, responsible to the President, which in one sense of the word, at least, will be the strong right arm and the represent-

ative of the President, given rather complete powers to decide regarding what agencies should be covered, giving the people discretion and authority to decide whether any or all or a portion of the contractors or contracts shall be exempt from the provisions of the bill. It is rather broad power.

Mr. MILLS. The gentleman is right. There is a tremendous grant of power involved in this, and authority and power that could be greatly misused. Heretofore it was possible for the President, during World War II, to call into this particular activity some of the very outstanding, most honorable men in the United States. They came into Government service and devoted their time unselfishly to the job. They did a very admirable job. There has been no criticism of them by anyone. Everyone seems to be satisfied both from the viewpoint of the public, the Government, and the individual contractor. Now in this bill, we say that the President shall appoint five members by and with the advice and consent of the Senate.

Mr. BROWN of Ohio. This is a new board, of course.

Mr. MILLS. Heretofore the Department could select generals or colonels or anyone they wanted to and assign them to renegotiation. But, I must say to the gentleman from Ohio I regret that the salary has been fixed at \$12,500; maybe it should have been \$14,000 or \$15,000, but I really feel, and sincerely believe, that it will be possible for the President to obtain the services of such outstanding men for this job as was the case before; that the Senate will see fit to agree to their appointment, and when they enter Government service they will do the kind of a job that the gentleman wants done and I want done. Certainly we do not want, and it is not intended, that any individual contractor will be exempt from the provisions of this bill just simply because somebody looks with favor upon him.

Mr. BROWN of Ohio. I think the gentleman will agree, though, that when the Congress of the United States delegates authority and grants such broad and far-reaching powers to any board or any group of men that we should be very careful to surround such a grant of power with every possible safeguard. And I want to call the attention of the gentleman to this particular provision which I am fearful is quite dangerous.

Mr. MILLS. It could be if not properly administered, I must agree with the gentleman from Ohio, but he and I will be watching, as we generally do, the administration of laws which are passed by the Congress. When we find some evidence of misuse or abuse or maladministration of this law, I can assure the gentleman our committee will be most anxious to enact necessary legislation to prevent a repetition of that.

Mr. BROWN of Ohio. May I say to the gentleman and to the House as I said to the Committee on Rules yesterday when we had the representatives of the gentleman's committee before us on this particular bill that at the present moment there is no provision, no over-

all committee, no group representing the House of Representatives—and this is where the people of America sit to legislate—to keep track of that which is going on in this great national emergency, in this great spending effort where we are going to spend, as the President says, \$100,000,000,000 a year of the people's money on national defense. Somehow or other, sometime or other, this House should provide some agency of its own to know whether the laws that it passes are carried out properly and whether the money that it appropriates is expended efficiently and well.

Mr. MILLS. Let me assure my friend from Ohio that, pending the passage of such a resolution by the House establishing such a committee, he may rely upon the statement I am about to make, that the Committee on Ways and Means will be very diligent in following the administration of the Renegotiation Act, just as we have attempted in the past to be diligent in following the administration of our internal revenue laws. Our committee is usually busy, but we always find time to assist by making suggestions in regard to proper administration of the laws coming from our committee.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from Arkansas.

Mr. HARRIS. I notice that in the exemption provision is included the phrase, "Any contract or subcontract for an agricultural commodity in its raw or natural state."

Mr. MILLS. That is right.

Mr. HARRIS. Is it not true, however, that this legislation would cover any sale of cotton to textile mills?

Mr. MILLS. Any cotton sold by a farmer direct which might be part of a subcontract to an original contract with one of the specified Departments would not be included within the jurisdiction of the bill. However, if my friend from Arkansas should accumulate from farmers over his area 1,000 bales of cotton or enough cotton to equal \$100,000 or more—

Mr. HARRIS. Which is unlikely.

Mr. MILLS. Of course, I do not want to give the wrong impression of my friend. I know he would not accumulate that much. My friend, in such case, who had not raised the cotton but had accumulated the cotton as a broker accumulates cotton, would not be exempt from the provisions of this bill. His contract with some cotton mill that dealt with one of the specified departments might be subjected to renegotiation. Under the old law, such a contract was not subjected to renegotiation.

Mr. HARRIS. The producers of cotton in many instances do their first processing, that is, by ginning. If a producer does his own ginning, then would he be subject to renegotiation?

Mr. MILLS. Receipts or accruals from the sale of cotton in bale form in the amount of \$100,000 or less by the producer would not be subjected to renegotiation under the terms of this bill. Cotton in the bale is the form in which

we are talking about as being an agricultural commodity exempt from renegotiation.

Mr. HARRIS. I mean \$100,000 or more would not be exempted?

Mr. MILLS. The gentleman understands there is a provision in the bill which exempts from renegotiation a contractor who has receipts or accruals of \$100,000 or less during a fiscal year from otherwise renegotiable contracts.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. MILLS. I yield.

Mr. HOFFMAN of Michigan. When it becomes necessary to provide facilities to train those men who are called into service, would the contract that might be entered into then be a war contract?

Mr. MILLS. Yes, I presume it might. I do not know what example the gentleman has in mind.

Mr. HOFFMAN of Michigan. Building barracks, for instance. Suppose a contractor is called on to erect barracks on the ground, and it amounts to more than \$100,000. Is that a war contract?

Mr. MILLS. Certainly, I would consider that a defense or war contract, yes. But the gentleman wants to bear in mind we are not thinking in terms of procurement here as to the purpose of a particular contract. We are thinking in terms of the renegotiation of contracts with these seven specified agencies of Government where it appears such a price has been charged for the execution of the contract that the contractor, if not renegotiated, will be left with what are termed excessive profits. The gentleman remembers as a result of the law in World War II, which I am sure the gentleman supported, there were some \$200,000,000,000 subject to renegotiation and that the Government recaptured through renegotiations approximately \$11,000,000,000. A large part of this sum would never have been recaptured by an excess-profits tax.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. MILLS. I yield.

Mr. HOFFMAN of Michigan. Yes, but what I had in mind was this. During the last war when we were building cantonments near here in two places those who were building them, the working men, were required to take out weekly permits for \$2.50 a week to be deducted from their pay so that they might be able to work on those projects.

Mr. MILLS. I know what the gentleman has in mind.

Mr. HOFFMAN of Michigan. Yes, I thought you would.

Mr. MILLS. Our committee deferred action on that subject because we knew of the gentleman's intense interest in it, and we knew of his great knowledge on the subject. We wanted to leave that to him.

Mr. HOFFMAN of Michigan. To whom?

Mr. MILLS. To you. We wanted to leave that subject to you.

Mr. HOFFMAN of Michigan. If you left it to me I would fix it.

Mr. MILLS. And we knew the gentleman would fix it and do a better job

than the Committee on Ways and Means could do.

Mr. HOFFMAN of Michigan. I would stop that kind of practice.

Mr. MILLS. We did not legislate on that subject.

Mr. HOFFMAN of Michigan. I would like to know why that was not like an excess profits tax.

Mr. MILLS. I tried to explain to the gentleman that we wanted to leave that subject to the gentleman from Michigan who knows more about it than we do.

Mr. HOFFMAN of Michigan. I do not see why the gentleman is being facetious about a serious matter.

The CHAIRMAN. If there are no further requests for time, the Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That this act may be cited as the "Renegotiation Act of 1951."

TITLE I—RENEGOTIATION OF CONTRACTS

SEC. 101. Declaration of policy.

It is hereby recognized and declared that the Congress has made available for the execution of the national defense program extensive funds, by appropriation and otherwise, for the procurement of property, processes, and services, and the construction of facilities necessary for the national defense; that sound execution of the national defense program requires the elimination of excessive profits from contracts made with the United States, and from related subcontracts, in the course of said program; and that the considered policy of the Congress, in the interests of the national defense and the general welfare of the Nation, requires that such excessive profits be eliminated as provided in this title.

SEC. 102. Contracts subject to renegotiation.

(a) In general: The provisions of this title shall be applicable (1) to all contracts with the Departments specifically named in section 103 (a), and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of January 1951, whether such contracts or subcontracts were made on, before, or after such first day, and (2) to all contracts with the Departments designated by the President under section 103 (a), and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of the first month beginning after the date of such designation, whether such contracts or subcontracts were made on, before, or after such first day; but the provisions of this title shall not be applicable to receipts or accruals attributable to performance, under contracts or subcontracts, after December 31, 1953.

(b) Renegotiation Act of 1948: The Renegotiation Act of 1948 shall not apply with respect to any receipts or accruals subject to renegotiation under this title. If a contractor or subcontractor, during the same fiscal year in which he has receipts or accruals subject to renegotiation under this title, has other receipts or accruals from contracts or subcontracts subject to renegotiation under the Renegotiation Act of 1948, the provisions of this title shall, notwithstanding subsection (a), apply to such other receipts or accruals if the Board and such contractor or subcontractor agree to such application of this title; and in the case of such an agreement the provisions of the Renegotiation Act of 1948 shall not apply to such other receipts or accruals of the fiscal year.

(c) Suspension of certain profit limitations: Notwithstanding any agreement to the contrary, the profit-limitation provisions of the act of March 27, 1934 (48 Stat. 503,

505), as amended and supplemented, shall not apply to any contract or subcontract if any of the receipts or accruals therefrom are subject to this title.

SEC. 103. Definitions.

For the purposes of this title—

(a) Department: The term "Department" means the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Commerce, the General Services Administration, the Atomic Energy Commission, and such other agencies of the Government exercising functions in connection with the national defense as the President shall designate.

(b) Secretary: The term "Secretary" means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Secretary of Commerce, the Administrator of General Services, the Atomic Energy Commission, and the head of any other agency of the Government which the President shall designate pursuant to subsection (a) of this section.

(c) Board: The term "Board" means the Renegotiation Board created by section 107 (a) of this act.

(d) Renegotiate and renegotiation: The terms "renegotiate" and "renegotiation" include a determination by agreement or order under this title of the amount of any excessive profits.

(e) Excessive profits: The term "excessive profits" means the portion of the profits derived from contracts with the Departments and subcontracts which is determined in accordance with this title to be excessive. In determining excessive profits there shall be taken into consideration the following factors:

(1) Efficiency of contractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower;

(2) Reasonableness of costs and profits, with particular regard to volume of production, normal earnings, and comparison of war and peacetime products;

(3) Reasonableness of return on net worth, with particular regard to the amount and source of public and private capital employed;

(4) Extent of risk assumed, including the risk incident to reasonable pricing policies;

(5) Nature and extent of contribution to the defense effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance;

(6) Character of business, including source and nature of materials, complexity of manufacturing technique, character and extent of subcontracting, and rate of turn-over;

(7) Such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted.

(f) Profits derived from contracts with the Departments and subcontracts: The term "profits derived from contracts with the Departments and subcontracts" means the excess of the amount received or accrued under such contracts and subcontracts over the costs paid or incurred with respect thereto and determined to be allocable thereto. All items estimated to be allowable as deductions and exclusions under chapter 1 of the Internal Revenue Code (excluding taxes measured by income) shall, to the extent allocable to such contracts and subcontracts, be allowed as items of cost, except that no amount shall be allowed as an item of cost by reason of the application of a carry-over or carry-back. Such costs shall be determined in accordance with the method of cost accounting regularly employed by the

contractor or subcontractor in keeping his books, but if no such method of cost accounting has been employed, or if the method so employed does not, in the opinion of the Board, or, upon redetermination, in the opinion of the Tax Court of the United States, properly reflect such costs, such costs shall be determined in accordance with such method as in the opinion of the Board, or, upon redetermination, in the opinion of the Tax Court of the United States, does properly reflect such costs. Irrespective of the method employed or prescribed for determining such costs, no item of cost shall be charged to contracts with the Departments or subcontracts or used in any manner for the purpose of determining such costs, to the extent that, in the opinion of the Board, or, upon redetermination, in the opinion of the Tax Court of the United States, such item is unreasonable or not properly chargeable to such contracts or subcontracts. In determining the amount of excessive profits to be eliminated proper adjustment shall be made on account of the taxes measured by income, other than Federal taxes, which are attributable to the portion of the profits which are not excessive.

(g) Subcontract: The term "subcontract" means—

(1) any purchase order or agreement (including purchase orders or agreements antedating the related prime contract or higher tier subcontract) to perform all or any part of the work, or to make or furnish any materials, required for the performance of any other contract or subcontract;

(2) any contract or arrangement covering the right to use any patented or secret method, formula, or device for the performance of a contract or subcontract; and

(3) any contract or arrangement (other than a contract or arrangement between two contracting parties, one of whom is found by the Board to be a bona fide executive officer, partner, or full-time employee of the other contracting party) under which—

(A) any amount payable is contingent upon the procurement of a contract or contracts with a Department or of a subcontract or subcontracts; or

(B) any amount payable is determined with reference to the amount of a contract or contracts with a Department or of a subcontract or subcontracts; or

(C) any part of the services performed or to be performed consists of the soliciting, attempting to procure, or procuring a contract or contracts with a Department or a subcontract or subcontracts.

Nothing in this subsection shall be construed (1) to affect in any way the validity or construction of provisions in any contract with a Department or any subcontract, heretofore at any time or hereafter made, prohibiting the payment of contingent fees or commissions; or (2) to restrict in any way the authority of the Board to determine the nature or amount of selling expense under subcontracts as defined in this subsection, as a proper element of the contract price or as a reimbursable item of cost, under a contract with a Department or a subcontract.

(h) Fiscal year: The term "fiscal year" means, except in the case of a partnership as defined in section 3797 (a) (2) of the Internal Revenue Code, the taxable year of the contractor or subcontractor under chapter 1 of such code. In the case of a partnership as so defined the term "fiscal year" means such period as the Board by regulations may prescribe.

(i) Received or accrued and paid or incurred: The terms "received or accrued" and "paid or incurred" shall be construed according to the method of accounting employed by the contractor or subcontractor in keeping his books, but if no such method of accounting has been employed, or if the method so employed does not, in the opinion of the Board, or, upon redetermination, in

the opinion of the Tax Court of the United States, properly reflect his receipts or accruals or payments or obligations, such receipts or accruals or such payments or obligations shall be determined in accordance with such method as is in the opinion of the Board, or, upon redetermination in the opinion of the Tax Court of the United States, does properly reflect such receipts or accruals or such payments or obligations.

(j) Person: The term "person" shall include an individual, firm, corporation, association, partnership, and any organized group of persons whether or not incorporated.

(k) Materials: The term "materials" shall include raw materials, articles, commodities, parts, assemblies, products, machinery, equipment, supplies, components, technical data, processes, and other personal property.

(l) Agency of the Government: The term "agency of the Government" means any part of the executive branch of the Government or any independent establishment of the Government or part thereof, including any Department (whether or not a Department as defined in subsection (a) of this section), any corporation wholly or partly owned by the United States which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, employee, authority, administration, or other establishment of the Government which is not a part of the legislative or judicial branches.

SEC. 104. Renegotiation clause in contracts.

Subject to section 106 (a), the Secretary of each Department specifically named in section 103 (a) shall insert in each contract made by such Department 30 days or more after the date of the enactment of this act, and the Secretary of each department designated by the President under section 103 (a) shall insert in each contract made by such Department 30 days or more after the date of such designation, a provision under which the contractor agrees—

(1) to the elimination of excessive profits through renegotiation;

(2) that there may be withheld by the United States from amounts otherwise due the contractor, or that he will repay to the United States, if paid to him, any excessive profits;

(3) that he will insert in each subcontract described in section 103 (g) a provision under which the subcontractor agrees—

(A) to the elimination of excessive profits through renegotiation;

(B) that there may be withheld by the contractor for the United States from amounts otherwise due to the subcontractor, or that the subcontractor will repay to the United States, if paid to him, any excessive profits;

(C) that the contractor shall be relieved of all liability to the subcontractor on account of any amount so withheld, or so repaid by the subcontractor to the United States;

(D) that he will insert in each subcontract described in section 103 (g) provisions corresponding to those of subparagraphs (A), (B), and (C), and to those of this subparagraph;

(4) that there may be withheld by the United States from amounts otherwise due the contractor, or that he will repay to the United States, as the Secretary may direct, any amounts which under section 105 (b) (1) (C) the contractor is directed to withhold from a subcontractor and which are actually unpaid at the time the contractor receives such direction.

The obligations assumed by the contractor or subcontractor under paragraph (1) or (3) (A), as the case may be, agreeing to the elimination of excessive profits through renegotiation shall be binding on him only if

the contract or subcontract, as the case may be, is subject to this title. A provision inserted in a contract or subcontract, which recites in substance that the contract or subcontract shall be deemed to contain all the provisions required by this section shall be sufficient compliance with this section. Whether or not the provisions specified in this section are inserted in a contract with a department or subcontract, to which this title is applicable, such contract or subcontract, as the case may be, shall be considered as having been made subject to this title in the same manner and to the same extent as if such provisions had been inserted.

SEC. 105. Renegotiation proceedings.

(a) Proceedings before the Board: Renegotiation proceedings shall be commenced by the mailing of notice to that effect, in such form as may be prescribed by regulation, by registered mail to the contractor or subcontractor. The Board shall endeavor to make an agreement with the contractor or subcontractor with respect to the elimination of excessive profits received or accrued, and with respect to such other matters relating thereto as the Board deems advisable. Any such agreement, if made, may, with the consent of the contractor or subcontractor, also include provisions with respect to the elimination of excessive profits likely to be received or accrued. If the Board does not make an agreement with respect to the elimination of excessive profits received or accrued, it shall issue and enter an order determining the amount, if any, of such excessive profits, and forthwith give notice thereof by registered mail to the contractor or subcontractor. In the absence of the filing of a petition with the Tax Court of the United States under the provisions of and within the time limit prescribed in section 108, such order shall be final and conclusive and shall not be subject to review or redetermination by any court or other agency. The Board shall exercise its powers with respect to the aggregate of the amounts received or accrued during the fiscal year (or such other period as may be fixed by mutual agreement) by a contractor or subcontractor under contracts with the departments and subcontracts, and not separately with respect to amounts received or accrued under separate contracts with the departments or subcontracts, except that the Board may exercise such powers separately with respect to amounts received or accrued by the contractor or subcontractor under any one or more separate contracts with the departments or subcontracts at the request of the contractor or subcontractor. By agreement with any contractor or subcontractor, and pursuant to regulations promulgated by it, the Board may in its discretion conduct renegotiation on a consolidated basis in order properly to reflect excessive profits of two or more related contractors or subcontractors. Whenever the Board makes a determination with respect to the amount of excessive profits, and such determination is made by order, it shall, at the request of the contractor or subcontractor, as the case may be, prepare and furnish such contractor or subcontractor with a statement of such determination, of the facts used as a basis therefor, and of its reasons for such determination. Such statement shall not be used in the Tax Court of the United States as proof of the facts or conclusions stated therein.

(b) Methods of eliminating excessive profits:

(1) In general: Upon the making of an agreement, or the entry of an order, under subsection (a) of this section by the Board, or the entry of an order under section 108 by the Tax Court of the United States, determining excessive profits, the Board shall forthwith authorize and direct the Secretaries or any of them to eliminate such excessive profits—

(A) by reductions in the amounts otherwise payable to the contractor under contracts with the departments, or by other revision of their terms;

(B) by withholding from amounts otherwise due to the contractor any amount of such excessive profits;

(C) by directing any person having a contract with any agency of the Government, or any subcontractor thereunder, to withhold for the account of the United States from any amounts otherwise due from such person or such subcontractor to a contractor, or subcontractor, having excessive profits to be eliminated, and every such person or subcontractor receiving such direction shall withhold and pay over to the United States the amounts so required to be withheld;

(D) by recovery from the contractor or subcontractor, or from any person or subcontractor directed under subparagraph (C) to withhold for the account of the United States, through payment, repayment, credit, or suit any amount of such excessive profits realized by the contractor or subcontractor or directed under subparagraph (C) to be withheld for the account of the United States; or

(E) by any combination of these methods, as is deemed desirable.

(2) Interest: Interest at the rate of 6 percent per annum shall accrue and be paid on the amount of such excessive profits from the date fixed for repayment by the order of the Board or by the agreement with the contractor or subcontractor to the date of repayment, and on amounts required to be withheld by any person or subcontractor for the account of the United States pursuant to paragraph (1) (C), from the date payment is demanded by the Secretaries or any of them to the date of payment. When the Tax Court of the United States, under section 108, redetermines the amount of excessive profits received or accrued by a contractor or subcontractor, interest at the rate of 6 percent per annum shall accrue and be paid by such contractor or subcontractor as follows:

(A) When the amount of excessive profits determined by the Tax Court is greater than the amount determined by the Board, interest shall accrue and be paid on the amount determined by the Board from the date originally fixed by the Board for its repayment to the date of repayment and, in addition thereto, interest shall accrue and be paid on the additional amount determined by the Tax Court from the date of its order determining such excessive profits to the date of repayment.

(B) When the amount of excessive profits determined by the Tax Court is equal to the amount determined by the Board, interest shall accrue and be paid on such amount from the date originally fixed by the Board for its repayment to the date of repayment.

(C) When the amount of excessive profits determined by the Tax Court is less than the amount determined by the Board, interest shall accrue and be paid on such lesser amount from the date originally fixed for repayment by the Board to the date of repayment.

(3) Suits for recovery: Actions on behalf of the United States may be brought in the appropriate courts of the United States to recover, (A) from the contractor or subcontractor, any amount of such excessive profits and accrued interest not withheld or eliminated by some other method under this subsection, and (B) from any person or subcontractor who has been directed under paragraph (1) (C) of this subsection to withhold for the account of the United States, the amounts required to be withheld under such paragraph, together with accrued interest thereon.

(4) Sureties: The surety under a contract or subcontract shall not be liable for the repayment of any excessive profits thereon.

(5) Indemnification: Each person is hereby indemnified by the United States against all claims on account of amounts withheld by such person pursuant to this subsection from a contractor or subcontractor and paid over to the United States.

(6) Treatment of recoveries: All money recovered in respect to amounts paid to a contractor from appropriations from the Treasury by way of repayment or suit under this subsection shall be covered into the Treasury as miscellaneous receipts. Upon the withholding of any amount of excessive profits or the crediting of any amount of excessive profits against amounts otherwise due a contractor, the Secretary shall certify the amount thereof to the Treasury and the appropriations of his Department shall be reduced by an amount equal to the amount so withheld or credited. The amount of such reductions shall be transferred to the surplus fund of the Treasury. All money recovered in respect of amounts paid to the contractor from corporate or other revolving funds (other than appropriations from the Treasury) by way of repayment, withholding, crediting, or suit under this section shall be restored to such funds. The Board is authorized to make regulations giving effect to the intent of this provision in respect of money recovered representing subcontract excessive profits not readily identifiable as to the public funds ultimately reflecting charges therefor.

(7) Credit for taxes paid: In eliminating excessive profits, the Secretary shall allow the contractor or subcontractor credit for Federal income and excess-profits taxes as provided in section 3806 of the Internal Revenue Code.

(c) Periods of limitations: No proceeding to determine the amount of excessive profits for any fiscal year shall be commenced more than 1 year after the statement required under subsection (e) (1) of this section is filed with the Board with respect to such year, and, if such proceeding is not commenced prior to the expiration of 1 year following the date upon which such statement is so filed, all liabilities of the contractor or subcontractor for excessive profits received or accrued during such fiscal year shall thereupon be discharged. If an agreement or order determining the amount of excessive profits is not made within 2 years following the commencement of the renegotiation proceeding, then upon the expiration of such 2 years all liabilities of the contractor or subcontractor for excessive profits with respect to which such proceeding was commenced shall thereupon be discharged, except that (1) if an order is made within such 2 years pursuant to a delegation of authority under subsection (d) of section 107, such 2-year limitation shall not apply to review of such order by the Board, and (2) such 2-year period may be extended by mutual agreement.

(d) Agreements to eliminate excessive profits: For the purposes of this title the Board may make final or other agreements with a contractor or subcontractor for the elimination of excessive profits and for the discharge of any liability for excessive profits under this title. Such agreements may contain such terms and conditions as the Board deems advisable. Any such agreement shall be conclusive according to its terms; and, except upon a showing of fraud or malfeasance or a willful misrepresentation of a material fact, (1) such agreement shall not for the purposes of this title be reopened as to the matters agreed upon, and shall not be modified by any officer, employee, or agent of the United States, and (2) such agreement and any determination made in accordance therewith shall not be annulled, modified, set aside, or disregarded in any suit, action, or proceeding. Notwithstanding any other provision of this title, however, the Board shall have the power, pursuant to

regulations promulgated by it, to modify any agreement or order for the purpose of extending the time for payment of sums due under such agreement or order.

(e) Information available to Board:

(1) Furnishing of financial statements, etc.: Every person who holds contracts or subcontracts, to which the provisions of this title are applicable, shall, in such form and detail as the Board may by regulations prescribe, file with the Board, on or before the first day of the fourth calendar month following the close of his fiscal year, a financial statement setting forth such information as the Board may by regulations prescribe as necessary to carry out this title. In addition to the statement required under the preceding sentence, every such person shall, at such time or times and in such form and detail as the Board may by regulations prescribe, furnish the Board any information, records, or data which are determined by the Board to be necessary to carry out this title. Any person who willfully fails or refuses to furnish any statement, information, records, or data required of him under this subsection, or who knowingly furnishes any such statement, information, records, or data containing information which is false or misleading in any material respect, shall, upon conviction thereof, be punished by a fine of not more than \$10,000 or imprisonment for not more than 1 year, or both.

(2) Audit of books and records: For the purpose of this title, the Board shall have the right to audit the books and records of any contractor or subcontractor subject to this title. In the interest of economy and the avoidance of duplication of inspection and audit, the services of the Bureau of Internal Revenue shall, upon request of the Board and the approval of the Secretary of the Treasury, be made available to the extent determined by the Secretary of the Treasury for the purpose of making examinations and audits under this title.

(f) Minimum amounts subject to renegotiation:

(1) In general: If the aggregate of the amounts received or accrued during a fiscal year (and on or after the applicable effective date specified in section 102 (a)) by a contractor or subcontractor, and all persons under control of or controlling or under common control with the contractor or subcontractor, under contracts with the Departments and subcontracts described in section 103 (g) (1) and (2), is not more than \$100,000, the receipts or accruals from such contracts and subcontracts shall not, for such fiscal year, be renegotiated under this title. If the aggregate of such amounts received or accrued during the fiscal year under such contracts and subcontracts is more than \$100,000, no determination of excessive profits to be eliminated for such year with respect to such contracts and subcontracts shall be in an amount greater than the amount by which such aggregate exceeds \$100,000.

(2) Subcontracts described in section 103 (g) (3): If the aggregate of the amounts received or accrued during a fiscal year (and on or after the applicable effective date specified in section 102 (a)) by a subcontractor, and all persons under control of or controlling or under common control with the subcontractor, under subcontracts described in section 103 (g) (3) is not more than \$25,000, the receipts or accruals from such subcontracts shall not, for such fiscal year, be renegotiated under this title. If the aggregate of such amounts received or accrued during the fiscal year under such subcontracts is more than \$25,000, no determination of excessive profits to be eliminated for such year with respect to such subcontracts shall be in an amount greater than the amount by which such aggregate exceeds \$25,000.

(3) Computation: In computing the aggregate of the amounts received or accrued during any fiscal year for the purposes of

paragraphs (1) and (2) of this subsection, such computation shall be made without elimination of intercompany sales. If the fiscal year is a fractional part of 12 months, the \$100,000 amount and the \$25,000 amount shall be reduced to the same fractional part thereof for the purposes of paragraphs (1) and (2).

SEC. 106. Exemptions.

(a) Mandatory exemptions: The provisions of this title shall not apply to—

(1) any contract by a department with any Territory, possession, or State, or any agency or political subdivision thereof, or with any foreign government or any agency thereof; or

(2) any contract or subcontract for an agricultural commodity in its raw or natural state, or if the commodity is not customarily sold or has not an established market in its raw or natural state, in the first form or state, beyond the raw or natural state, in which it is customarily sold or in which it has an established market, but only if such contract or subcontract is with the producer of such agricultural commodity. The term "agricultural commodity" as used herein shall include but shall not be limited to—

(A) commodities resulting from the cultivation of the soil such as grains of all kinds, fruits, nuts, vegetables, hay, straw, cotton, tobacco, sugarcane, and sugar beets;

(B) natural resins, saps, and gums of trees;

(C) animals, such as cattle, hogs, poultry, and sheep, fish, and other marine life, and the produce of live animals, such as wool, eggs, milk, and cream; or

(3) any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, which has not been processed, refined, or treated beyond the ordinary treatment processes normally applied by producers in order to obtain the first commercially marketable product, but only if such contract or subcontract is with the owner or operator of the mine, well, or deposit from which such product is produced. The term "ordinary treatment processes" means, in the case of the product of a mine, well, or deposit with respect to which an allowance for percentage depletion is provided by section 114 (b) (3) or (4) of the Internal Revenue Code, those processes which are taken into account under such section in computing gross income from the property, and in the case of any other product such term means such similar processes as may be prescribed under regulations promulgated by the Board; or

(4) any contract or subcontract for timber which has not been processed beyond the form of logs, but only if such contract or subcontract is with the owner of the timber property or with the producer of the logs; or

(5) any subcontract directly or indirectly under a contract or subcontract to which this title does not apply by reason of this subsection.

(b) Cost allowance: In the case of a contractor or subcontractor who produces an agricultural product and processes, refines, or treats such a product beyond the first form or state provided in paragraph (2) of subsection (a), or who produces the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, and processes, refines, or treats such a product beyond the first commercially marketable state provided in paragraph (3) of subsection (a) or, in the case of timber, beyond the form of logs, the Board shall prescribe such regulations as may be necessary to give the contractor or subcontractor a cost allowance substantially equivalent to the amount which would have been realized by such contractor or subcontractor if he had sold the product in the form or state provided in paragraph (2) or (3) of subsection (a), or, in the case of timber, in the form of logs.

(c) Permissive exemptions: The Board is authorized, in its discretion, to exempt from power or all of the provisions of this title—

(1) any contract or subcontract to be performed outside of the territorial limits of the continental United States or in Alaska;

(2) any contracts or subcontracts under which, in the opinion of the Board, the profits can be determined with reasonable certainty when the contract price is established, such as certain classes of (A) agreements for personal services or for the purchase of real property, perishable goods, or commodities the minimum price for the sale of which has been fixed by a public regulatory body, (B) leases and license agreements, and (C) agreements where the period of performance under such contract or subcontract will not be in excess of 30 days;

(3) any contract or subcontract or performance thereunder during a specified period or periods if, in the opinion of the Board, the provisions of the contract are otherwise adequate to prevent excessive profits;

(4) any contract or subcontract the renegotiation of which would jeopardize secrecy required in the public interest;

(5) any subcontract or group of subcontracts not otherwise exempt from the provisions of this section if, in the opinion of the Board, it is not administratively feasible in the case of such subcontract or in the case of such group of subcontracts to determine and segregate the profits attributable to such subcontract or group of subcontracts from the profits attributable to activities not subject to renegotiation.

The Board may so exempt contracts and subcontracts both individually and by general classes or types.

SEC. 107. Renegotiation Board.

(a) Creation of Board: There is hereby created, as an independent establishment in the executive branch of the Government, a Renegotiation Board to be composed of five members appointed by the President, by and with the advice and consent of the Senate. Not less than three members of the Board shall be appointed from civilian life. The President shall designate one member to serve as chairman of the Board. Each member shall receive compensation at the rate of \$12,500 per annum. No member shall engage in any business, vocation, or employment other than that as a member of the Board. The Board shall have a seal which shall be judicially recognized.

(b) Places of meetings and quorum: The principal office of the Board shall be at such place as may be determined from time to time by the Board, but it or any division thereof may meet and exercise its powers at any other place. The Board may establish such number of offices as it deems necessary to expedite the work of the Board. Three members of the Board shall constitute a quorum, and any power, function, or duty of the Board may be exercised or performed by a majority of the members present if the members present constitute at least a quorum.

(c) Personnel: The Board is authorized, subject to the civil-service laws and the Classification Act of 1949, to employ and fix the compensation of such officers and employees as it deems necessary to assist it in carrying out its duties under this title. The Board may, with the consent of the head of the agency of the Government concerned, utilize the services of any officers or employees of the United States, and reimburse such agency for the services so utilized. Officers or employees whose services are so utilized shall not receive additional compensation for such services, but shall be allowed and paid necessary travel expenses and a per diem in lieu of subsistence in accordance with the Standardized Government Travel Regulations while away from their homes or official station on duties of the Board.

(d) Delegation of powers: The Board may delegate in whole or in part any function, power, or duty (other than its power to promulgate regulations and rules) to any agency of the Government, including any such agency established by the Board, and may authorize the successive redelegation, within limits specified by it, of any such function, power, or duty to any agency of the Government, including any such agency established by the Board.

(e) Organization and operation of Board: The Chairman of the Board may from time to time divide the Board into divisions of one or more members, assign the members of the Board thereto, and in case of a division of more than one member, designate the chief thereof. The Board may also, by regulations or otherwise, determine the character of cases to be conducted initially by the Board through an officer or officers of, or utilized by, the Board, the character of cases to be conducted initially by the various agencies of the Government authorized to exercise powers of the Board pursuant to subsection (d) of this section, the character of cases to be conducted initially by the various divisions of the Board, and the character of cases to be conducted initially by the Board itself. The Board may review any determination in any case not initially conducted by it, on its own motion or, in its discretion, at the request of any contractor or subcontractor aggrieved thereby. Unless the Board upon its own motion initiates a review of such determination within 90 days from the date of such determination, or at the request of the contractor or subcontractor made within 90 days from the date of such determination initiates a review of such determination within 90 days from the date of such request, such determination shall be deemed the determination of the Board. If such determination was made by an order with respect to which notice thereof was given by registered mail pursuant to section 105 (a), the Board shall give notice by registered mail to the contractor or subcontractor of its decision not to review the case. If the Board reviews any determination in any case not initially conducted by it, it shall issue and enter an order under section 105 (a) determining the amount, if any, of excessive profits, and forthwith give notice thereof by registered mail to the contractor or subcontractor. The amount of excessive profits so determined upon review may be less than, equal to, or greater than, that determined by the agency of the Government whose action is so reviewed.

(f) Delegation of renegotiation functions to Board: The Board is hereby authorized and directed to accept and perform such renegotiation powers, duties, and functions as may be delegated to it under any other law requiring or permitting renegotiation, and the Board is further authorized to redelegate any such power, duty, or function to any agency of the Government and to authorize successive redelegations thereof, within limits specified by the Board. Notwithstanding any other provision of law, the Secretary of Defense is hereby authorized to delegate to the Board, in whole or in part, the powers, functions, and duties conferred upon him by any other renegotiation law.

SEC. 108. Review by the Tax Court.

Any contractor or subcontractor aggrieved by an order of the Board determining the amount of excessive profits received or accrued by such contractor or subcontractor may—

(a) if the case was conducted initially by the Board itself—within 90 days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing under section 105 (a) of the notice of such order, or

(b) if the case was not conducted initially by the Board itself—within 90 days (not

counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing under section 107 (e) of the notice of the decision of the Board not to review the case or the notice of the order of the Board determining the amount of excessive profits,

file a petition with the Tax Court of the United States for a redetermination thereof. Upon such filing such court shall have exclusive jurisdiction, by order, to finally determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor, and such determination shall not be reviewed or redetermined by any court or agency. The court may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the Board. A proceeding before the Tax Court to finally determine the amount, if any, of excessive profits shall not be treated as a proceeding to review the determination of the Board, but shall be treated as a proceeding de novo. For the purposes of this section the court shall have the same powers and duties, insofar as applicable in respect of the contractor, the subcontractor, the Board, and the Secretary, and in respect of the attendance of witnesses and the production of papers, notice of hearings, hearings before divisions, review by the Tax Court of decisions of divisions, stenographic reporting, and reports of proceedings, as such court has under sections 1110, 1111, 1113, 1114, 1115 (a), 1116, 1117 (a), 1118, 1120, and 1121 of the Internal Revenue Code in the case of a proceeding to redetermine a deficiency. In the case of any witness for the Board, the fees and mileage, and the expenses of taking any deposition shall be paid out of appropriations of the Board available for that purpose, and in the case of any other witnesses shall be paid, subject to rules prescribed by the court, by the party at whose instance the witness appears or the deposition is taken. The filing of a petition under this section shall not operate to stay the execution of the order of the Board under subsection (b) of section 105. Any amount collected by the United States under an order of the Board in excess of the amount found to be due under a determination of excessive profits by the Tax Court shall be refunded to the contractor or subcontractor with interest thereon at the rate of 6 percent per annum from the date of collection by the United States to the date of refund.

SEC. 109. Rules and regulations.

The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out the provisions of this title.

SEC. 110. Compliance with regulations, etc.

No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from his compliance with a rule, regulation, or order issued pursuant to this title, notwithstanding that any such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid.

SEC. 111. Application of Administrative Procedure Act.

The functions exercised under this title shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of section 3 thereof.

SEC. 112. Appropriations.

There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes of this title. Funds made available for the purposes of this title may be allocated or transferred for any of the purposes of this title, with the approval of the Bureau of the Budget to any agency of the Government designated to assist in carrying out this title. Funds so allocated

or transferred shall remain available for such period as may be specified in the acts making such funds available.

SEC. 113. Prosecution of claims against United States by former personnel.

Nothing in title 18, United States Code, sections 281 and 283, or in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99) shall be deemed to prevent any person by reason of service prior to January 1, 1954, in performance of duties or functions required by this act, from acting as counsel, agent, or attorney for prosecuting any claim against the United States: *Provided*, That such person shall not prosecute any claim against the United States (1) involving any subject matter directly connected with which such person was so employed, or (2) during the period such person is engaged in employment in a department or the Board.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. Functions under World War II Renegotiation Act.

(a) Abolition of War Contracts Price Adjustment Board: The War Contracts Price Adjustment Board, created by the Renegotiation Act, is hereby abolished.

(b) Transfer of functions in general: All powers, functions, and duties conferred upon the War Contracts Price Adjustment Board by the Renegotiation Act and not otherwise specifically dealt with in this section are transferred to the Renegotiation Board.

(c) Amendment of the Renegotiation Act: Subsection (a) (4) (D) of the Renegotiation Act is amended by inserting at the end thereof the following: "A net renegotiation rebate shall not be repaid unless a claim therefor has been filed with the Board on or before the date of its abolition, or unless a claim shall have been filed with the Administrator of General Services (i) on or before June 30, 1951, or (ii) within 90 days after the making of an agreement or the entry of an order under subsection (c) (1) determining the amount of excessive profits, whichever is later. A claim shall be deemed to have been filed when received by the Board or the Administrator, whether or not accompanied by a statement of the Commissioner of Internal Revenue showing the amortization deduction allowed for the renegotiated year upon the recomputation made pursuant to section 124 (d) of the Internal Revenue Code."

(d) Transfer of certain functions: All powers, functions, and duties conferred upon the War Contracts Price Adjustment Board by subsection (a) (4) (D) of the Renegotiation Act, subject to the amendment thereof by subsection (c) of this section, are hereby transferred to the Administrator of General Services.

(e) Functions and records: Each Secretary of a Department is authorized and directed to eliminate the excessive profits determined under all existing renegotiation agreements or orders by the methods enumerated in subsection (c) (2) of the Renegotiation Act in respect of all renegotiations conducted by his Department pursuant to delegations from the War Contracts Price Adjustment Board. The several Departments shall retain custody of the renegotiation case files covering renegotiations thus conducted for such time as the Secretary deems necessary for the purposes of this section, and thereafter they shall be made available to the Renegotiation Board for appropriate disposition. The renegotiation records of the War Contracts Price Adjustment Board shall become records of the Renegotiation Board on the effective date of this section.

(f) Refunds: All refunds under subsection (a) (4) (D) of the Renegotiation Act (relating to the recomputation of the amortization deduction), all refunds under the last sentence of subsection (i) (3) of such act

(relating to excess inventories), and all amounts finally adjudged or determined to have been erroneously collected by the United States pursuant to a determination of excessive profits, with interest thereon in the last mentioned case at a rate not to exceed 4 percent per annum as may be determined by the Administrator of General Services or his duly authorized representative computed to the date of certification to the Treasury Department for payment, shall be certified by the Administrator of General Services or his duly authorized representative to the Treasury Department for payment from such appropriations as may be available therefor: *Provided*, That such refunds shall be based solely on the certificate of the Administrator of General Services or his duly authorized representative.

(g) Existing policies, procedures, etc., to remain in effect: All policies, procedures, directives, and delegations of authority prescribed or issued (1) by the War Contracts Price Adjustment Board, or (2) by any Secretary or other duly authorized officer of the Government, under the authority of the Renegotiation Act, in effect upon the effective date of this section and not inconsistent herewith, shall remain in full force and effect unless and until superseded, or except as they may be amended, under the authority of this section or any other appropriate authority. All functions, powers, and responsibilities transferred by this section shall be accompanied by the authority to issue appropriate regulations and procedures, or to modify existing procedures, in respect of such powers, functions, and responsibilities.

(h) Savings provision: This section shall not be construed (1) to prohibit disbursements authorized by the War Contracts Price Adjustment Board and certified pursuant to its authority prior to the effective date of this section, (2) to affect the validity or finality of any agreement or order made or issued pursuant to law by the War Contracts Price Adjustment Board or pursuant to delegations of authority from it, or (3) to prejudice or to abate any action taken or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause; but any court having on its docket a case to which the War Contracts Price Adjustment Board is a party, on motion or supplemental petition filed at any time within 12 months after the effective date of this section, showing a necessity for the survival of such suit, action, or other proceeding to obtain a determination of the questions involved, may allow the same to be maintained by or against the United States.

(i) Renegotiation Act not repealed: Except as by this act specifically amended or modified, all provisions of the Renegotiation Act shall remain in full force and effect.

(j) Definitions: The terms which are defined in the Renegotiation Act shall, when used in this section, have the same meaning as when used in the Renegotiation Act, except that where a renegotiation function has been transferred by or pursuant to law the terms "Secretary" or "Secretaries" and "Department" or "Departments" shall be understood to refer to the successors in function to those officers or offices specifically named in the Renegotiation Act.

(k) Effective date of section: This section shall take effect 60 days after the date of the enactment of this act.

SEC. 202. Period of limitations for Renegotiation Act of 1948.

No proceeding under the Renegotiation Act of 1948 to determine the amount of excessive profits for any fiscal year shall be commenced more than 1 year after the mandatory statement required by the regulations issued pursuant to such act is filed with respect to such year, or more than 6 months after the date of the enactment of this title, whichever is the later, and if such proceeding

is not so commenced (in the manner provided by the regulations prescribed pursuant to such act), all liabilities of the contractor or subcontractor under such act for excessive profits received or accrued during such fiscal year shall thereupon be discharged. If an agreement or order determining the amount of excessive profits under such act is not made within 2 years following the commencement of the renegotiation proceeding, then upon the expiration of such 2 years all liabilities of the contractor or subcontractor for excessive profits with respect to which such proceeding was commenced shall thereupon be discharged, except that (1) such 2-year period may be extended by mutual agreement, and (2) if within such 2 years such an order is duly issued pursuant to such act, such 2-year limitation shall not apply to the review of such order by any renegotiation board duly authorized to undertake such review.

SEC. 203. Amendment of section 3806 of the Internal Revenue Code.

Section 3806 (a) (1) of the Internal Revenue Code is hereby amended by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) The term 'renegotiation' includes any transaction which is a renegotiation within the meaning of the Federal Renegotiation Act applicable to such transaction, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

"(B) The term 'excessive profits' includes any amount which constitutes excessive profits within the meaning assigned to such term by the applicable Federal Renegotiation Act, any part of the contract price of a contract with the United States or any agency thereof, any part of the subcontract price of a subcontract under such a contract, and any profits derived from one or more such contracts or subcontracts.

"(C) The term 'subcontract' includes any purchase order or agreement which is a subcontract within the meaning assigned to such term by the applicable Federal Renegotiation Act.

"(D) The term 'Federal Renegotiation Act' includes section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d sess.), as amended or supplemented, the Renegotiation Act of 1948, as amended or supplemented, and the Renegotiation Act of 1951, as amended or supplemented."

SEC. 204. Separability provision.

If any provision of this act or the application of any provision to any person or circumstance is held invalid, the validity of the remainder of the act and of the application of its provisions to other persons and circumstances shall not be affected thereby.

Mr. COOPER (interrupting the reading of the bill). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with and that it be printed in the Record at this point, and that points of order and amendments be in order at any point in the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DOUGHTON. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment: Page 23, line 9, strike out "(G)" and insert "(g)."

The committee amendment was agreed to.

Mr. DOUGHTON. Mr. Chairman, I offer another committee amendment.

The Clerk read as follows:

Committee amendment: Page 31, line 9, insert before the comma the following: "and does not make an agreement with the contractor or subcontractor with respect to the elimination of excessive profits."

The committee amendment was agreed to.

Mr. DOUGHTON. Mr. Chairman, I offer another committee amendment.

The Clerk read as follows:

Committee amendment: Page 42, line 18, strike out "Renegotiation Act" and insert "renegotiation act."

The committee amendment was agreed to.

Mr. JONAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONAS:

On page 33, line 25, after the word "shall", strike out the word "not."

On page 34, line 1, before the period insert the following: "if within 5 days after the filing of the petition the petitioner files with the Tax Court a good and sufficient bond approved by such court in such amount as may be fixed by the court."

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. JONAS. I yield.

Mr. MILLS. I have discussed the gentleman's amendment with some of the members of the committee on this side and we see no objection to it. It may be that some changes will have to be made elsewhere in the bill, but the idea of the gentleman's amendment seems to be sound. I might call the gentleman's attention to the fact that, although it was not contained in the law during World War II, the filing of a bond with the Department of Justice would stay the execution of an order of the Board. There was an informal arrangement worked out to accomplish the same result so the gentleman's amendment is somewhat in keeping with that past practice. We have no objection to the amendment on this side.

Mr. JONAS. If the gentleman will assure me that whatever he proposes to do on the over-all picture will not change the substance but merely the form, I am satisfied.

Mr. MILLS. That is a fact.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. JONAS].

The amendment was agreed to.

Mr. BENDER. Mr. Chairman, I move to strike out the last word, and I ask unanimous consent to speak out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. COOPER. Mr. Chairman, reserving the right to object, we want to get through with this bill. After we get through with it the gentleman can have an opportunity to speak.

Mr. BENDER. If you want to object, that is your privilege.

Mr. COOPER. I can object, but I do not want to unless I have to. I will not object at this time, but I will object to

any further request to speak out of order. We want to get through with this bill and not talk about everything else under the sun.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. BENDER. Mr. Chairman, I think that last comment of the gentleman from Tennessee [Mr. COOPER] was entirely uncalled for. I have been here during this debate and I have heard many things discussed that were not a part of this bill. The gentleman from Tennessee took no exception to any part of any Member's utterances. I merely rose to call attention to the fact that this is a bill that apparently we all agree to. There is no disagreement. I want to emphasize that, as I want to emphasize the issue that was up here last Friday when there was no disagreement of any kind. Why do I do this? Simply to call attention to the fact that during campaign time in the northern part of the United States members of the Democratic Party on every occasion charged the minority party, the Republicans with being the tail to the southern Democratic kite. They never missed an opportunity to allege that Republicans were pulling the chestnuts out of the fire daily for the South. Obviously, this is not one of those days. And I want to emphasize it. Many times we find ourselves in accord.

During the Eightieth Congress I voted for a continuation of the excise tax for a time because our Government was operated extravagantly and because our expenses were exorbitant. My opponent in the last campaign, a Member of this body last year, repeatedly asserted that I voted to make excise taxes permanent. At no time did any majority party Member rise to correct him, nor did any minority party Member rise to keep the record straight.

When a bill was considered here last year repealing the excise taxes, a few majority members of the Ways and Means Committee had a field day commending him—and he was on the tail end of the committee—commending him for his great work in having the excise taxes repealed. But the taxes were not repealed. We found ourselves in the throes of another New Deal emergency. Taxes went up instead. All the taxpayers got was conversation.

Frankly, in the interest of fair play, I simply wanted to emphasize the point that the country should have in mind, that we Republicans are not the tail to anybody's kite. When we feel that an issue deserves support, we support it, not because it comes from the North or from the South or from the East or the West. I think it is important that we Republicans who are in the minority understand that the majority party at election time, in order to control the House, to gain the forty or fifty close districts where the vote is quite even, stuff that down our throats. So I wanted to make it clear that this is a day when we are voting unanimously on an issue because we believe in it.

Mr. EBERHARTER. Mr. Chairman, will the gentleman yield?

Mr. BENDER. I yield to the gentleman from Pennsylvania, because he is one of those of whom I spoke.

Mr. EBERHARTER. I want to say to the gentleman, Mr. Chairman, that our friend the former Member from Ohio, Mr. Young, was very active and very effective in his efforts to have the excise taxes repealed. He was just as anxious as the minority membership on the committee and as the majority membership on the committee, and he worked very effectively in his efforts to repeal excise taxes, and deserves credit for it.

Mr. BENDER. I am glad to have the gentleman's contribution about his New Deal brother. I wish the Ways and Means Committee came forward with a lot of tax repealers, but how in the world can you repeal any tax with a Government as wasteful as this odious regime that has run Washington for the last 17 years.

The only tax reductions we have had in a dozen or more years came as a result of the performance of the Eightieth Congress.

Whenever anyone tells our Federal administrators that we should start in at once to cut down on Washington spending, he is promptly asked the question, "Where?" Dozens of answers have been suggested, but none has ever found general acceptance by a Government determined to maintain its civilian personnel at the highest possible level. Senator HARRY BYRD, of Virginia, has proposed several alternative budgets in recent years. All have been commended, but not one has ever been tried by the Government.

Within the past week there has been much discussion of his plan to reduce nonmilitary expenditures by approximately \$7,000,000,000. When we remember that the Federal budget for the fiscal year from June 30, 1951, to July 1, 1952, contemplates expenditures of \$75,000,000,000, with estimated revenues figured at only fifty-one billions, the necessity for sharp cutting of our spending program becomes all too obvious. There is every reason to believe that the \$25,000,000,000 deficit estimated for the coming year will be matched in other years to come.

Senator BYRD has suggested that we trim the postal deficit by \$3,600,000,000; cut our civilian payroll in the military departments by 150,000 persons—we now have 1 civilian for every 2 men in uniform; reduce our foreign-aid program to \$500,000,000 from the present four billions in view of our military assistance plans for overseas aid. These three items would achieve the \$7,000,000,000 savings. The time to start on an honest effort to save these vast sums is now.

Mr. MEADER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MEADER: Page 27, line 1, strike out all of subsection (c) from line 1, page 27, to and including line 9, on page 28.

Mr. MEADER. Mr. Chairman, it is with some hesitation that I offer this amendment, but I believe that a caveat should be inserted in the RECORD and

that some observations should be made concerning these permissive exemptions.

First of all, let me say that my attitude on this proposal is based upon the general principle that legislation for this country should be enacted here in the Congress and not in the departments downtown. The granting of this very broad authority to add to the exemptions which Congress has seen fit to make, in my judgment, delegates legislative authority to the Board created by this bill far beyond what is wise.

Second, let me call attention to the fact that the Board possessing this discretion will be subjected to pressures from war contractors on all sides who claim that they can come within one or the other of the five provisions of this subsection. I think the pressures might sometimes not be resisted effectively by the Board if it is a politically appointed Board.

There is a great opportunity in this particular discretion for discrimination and favoritism, and you know what human weakness is. Furthermore, these permissive exemptions are wholly unnecessary. If a contractor has no profits he will not be hurt by renegotiation; if he has profits he ought to be subjected to renegotiation under the very broad standards which the act sets up.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. MEADER. I yield.

Mr. MILLS. Would the gentleman want the Renegotiation Board to go through the process of renegotiation, to subject the contractor to all the problems of renegotiation, when on the face of it the contract itself indicates that there are no excessive profits? The reason I ask the question is that, if the gentleman's amendment prevails, that would be the unavoidable result, for there would be no authority whatsoever to exempt any contractor with receipts or accruals in excess of \$100,000, regardless.

Mr. VORYS. Mr. Chairman, will the gentleman yield?

Mr. MEADER. I am glad to yield to the gentleman from Ohio.

Mr. VORYS. If I understood, there was no contract required to be negotiated under this general law. Am I wrong about it?

Mr. MILLS. The gentleman is wrong. All contracts with these departments amounting to \$100,000 or more are subjected to the jurisdiction of this Board and to renegotiation. We are attempting here to give the Renegotiation Board the authority to eliminate certain contracts where there does not appear to be excessive profits, but if the gentleman's amendment prevails there will be no such authority in the Board.

Mr. VORYS. The gentleman said that all contracts over \$100,000 may be negotiated. As I understand it, no one expects that every contract over \$100,000 in connection with the defense program is going to be renegotiated.

Mr. MEADER. Mr. Chairman, let me point out that the time consumed in a preliminary audit in renegotiation is not extensive. I understand renegotiation agents do not need to go as thoroughly

into some contracts as others. If it appears from a preliminary examination that there are no renegotiable profits they do not have to make a more complete examination. I want to point out further that a good deal of time and expense will be saved by the Board if it is not subjected to pressure by war contractors who want to be exempted. Let me point out further that where a contractor has an exempted contract and another contract which is not exempt, he may attempt to throw all of his costs against the contract that is not exempted and make all of his profits on the one which is.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(Mr. MEADER asked and was given permission to revise and extend his remarks.)

Mr. COOPER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan [Mr. MEADER].

Mr. Chairman, certainly we commend the gentleman for the laudable purpose he undoubtedly wishes to accomplish, but the effect of his amendment would go much further than he himself contemplates.

This provision of the bill contains permissive exemptions, those exemptions which are apparent on their face to the Board should be made. Regardless of how apparent it might be that it is not the type of contract that should be negotiated, under the terms of the amendment offered by the gentleman from Michigan the Board would have no discretion and would have to put the contractor to all of the expense and difficulty of negotiating the contract when no useful purpose could be served for the Government and no benefit could be secured by the contractor.

Mr. Chairman, those who are in charge of this program, who appeared before the committee and who have worked with us all along step by step in the preparation of this bill, feel that these five minimum standards of permissive exemptions are vitally essential to the proper administration of this act in giving a type of fair and equitable consideration to the contractors and businessmen of this country to which they are justly entitled.

Mr. Chairman, I ask that the amendment be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. MEADER].

The amendment was rejected.

Mr. HINSHAW. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, in the discussion between the gentleman from Arkansas and myself a few moments ago, he called attention to subsection (f) of section 103 in the bill which begins at the bottom of page 5 and runs over to page 6.

In line 5, page 6, it is stated:

All items estimated to be allowable as deductions and exclusions under chapter 1 of the Internal Revenue Code shall, to the extent allocable to such contracts and subcontracts, be allowed as items of cost, except that no amount shall be allowed as an item of cost by reason of the application of a carry-over or carry-back.

Then the paragraph goes on to its conclusion.

Section 109, page 34, authorizes the Board to make such rules, regulations, and orders as it deems necessary or appropriate to carry out the provisions of this title.

I would like to ask the gentleman from Arkansas, in order that we may fully understand this, whether it is the intent of the committee that the rules, regulations, and laws governing the Internal Revenue Bureau under the Internal Revenue Code and its regulations issued pursuant thereto are intended to apply exclusively in this matter of cost determination, and whether it is his belief that by the Board making such rules and regulations we can thereby obviate the necessity that has existed in the past for contractors and subcontractors to keep as many sets of books as the number of departments they are doing business with, plus one set for the Internal Revenue people and one set of books for the General Accounting Office?

Mr. MILLS. In response to the gentleman, permit me to say it is certainly the intention of the committee that costs which are allowable for income-tax purposes shall be allowable for renegotiation purposes to the extent allocable. That is what we say here in this language on page 6 of the bill, so that there will be no need of keeping one set of cost records for tax purposes and another set of records for renegotiation.

Mr. HINSHAW. I appreciate the gentleman's statement, and I only hope that this bill reads in such a way that the Board under its terms will have the power to order and direct that all of these agencies of government that make contracts with contractors shall follow the same cost-accounting procedure.

Mr. MILLS. May I interrupt the gentleman further?

Mr. HINSHAW. Indeed.

Mr. MILLS. I think I can assure the gentleman that this is the exact understanding of all of the departments which have had anything to do with the consideration of this bill, including the Bureau of the Budget, which worked with these departments in attempting to bring all of the various departments together in harmony upon this one subject. Certainly, what I have said to the gentleman is the intention of the committee, and I think I can say it is clearly understood to be the purpose of the bill in this particular language, and that there will be no argument in its administration, provided this language is retained in the final bill.

Mr. HINSHAW. If the gentleman and his committee have accomplished that much, if nothing else, in the course of the work done on this bill, they will have saved to the Government a very great deal of money for cost accounting. As is well known by every contractor, they have to keep innumerable sets of books, and ultimately the Government pays the bill.

Mr. MILLS. Not only have we attempted to do that, but permit me to call the attention of the gentleman to the fact that we have attempted to eliminate in here, by stating our intentions

in the report, the duplication of offices within the same location. Now the gentleman lives in a very populous area of California. It may have been that there were six or seven renegotiation offices in Los Angeles.

Mr. HINSHAW. Indeed, there were.

Mr. MILLS. It is the hope of the committee that renegotiation under this bill may be handled in such a way as to avoid any such duplication.

Mr. HINSHAW. Now, I have one final question, and that is this:

Mr. MILLS. Would the gentleman yield to me 1 minute before he propounds another question?

Mr. HINSHAW. Yes.

Mr. MILLS. Permit me to call the attention of the gentleman to the language on page 22, line 7, which reads:

In the interest of economy and the avoidance of duplication of inspection and audit, the services of the Bureau of Internal Revenue shall, upon request of the board and the approval of the Secretary of the Treasury, be made available to the extent determined by the Secretary of the Treasury for the purpose of making examinations and audits under this title.

Mr. HINSHAW. I thank the gentleman. I had noticed the paragraph, but thought that was merely a matter of transfer of personnel. At this point I think that I should include in the RECORD recommendations Nos. 62 and 63 of the Congressional Aviation Policy Board of the Eightieth Congress as contained in its report, same being Senate Report No. 949 of the Eightieth Congress, second session, as follows:

62. The National Military Establishment, in collaboration with the General Accounting Office and the Bureau of Internal Revenue should be directed (after examining the views of organizations capable of reflecting industry's difficulties under present accounting practices) to establish a single set of rules applying to audit and determination of costs under contracts of the National Military Establishment, and in agreement with the General Accounting Office, prescribe the normal time for completing the audit and the issuance of a suitable certificate or other form of final clearance (except for fraud).

There exist three different Government regulations under which costs of Government contracts are determined. They emanate separately from the Army, Navy, Bureau of Internal Revenue, and General Accounting Office.

The decisions of the Comptroller General often place an entirely different interpretation on what constitutes allowable costs. No manual is available to contractors outlining basis for decisions. Such decisions are given after the cost has been incurred; disallowances are retroactive in effect, penalizing the contractor.

Resulting complications make it desirable to establish a definitive uniform policy with respect to costs and expenses allowable under Government contracts, eliminating different interpretations by three Government agencies.

Proper function of General Accounting Office should be a review of settlement procedure and final audit, rather than duplication of audit and administrative interpretation of contracts.

The cost-plus-fixed-fee contract must continue for highly technical research and long-range developments, cost of which cannot be predetermined for bid purposes under fixed-price contracts, but the contracting agency

should be able to change objectives and methods of performance for such contracts to meet changes in military needs occurring as effort progresses.

All companies must subject themselves to audit of the Bureau of Internal Revenue for income-tax assessment. The taxpayer can be best served if other procurement agencies of Government (Army, Navy, and Air Force) agree to accept the principles of the Internal Revenue Code for determination of allowable costs.

63. The Congress should enact legislation authorizing contract termination procedure for peacetime procurement, similar to the procedure provided for in the Contract Settlement Act of 1944.

The Contract Settlement Act of 1944 permitted the Government to accomplish an outstanding task in terminating and liquidating of World War II commitments. So far as the aircraft manufacturing industry is concerned, it is believed that those commitments were thoroughly and efficiently settled. Without new legislation, industry will return to the confused legal situation which existed between World War I and World War II. In that period question prevailed as to whether any settlement by agreement could be made, or, if made, could withstand the General Accounting Office rulings.

Present joint procurement regulations of the Air Force and Army provide for a so-called formula settlement of contracts. Formula settlements were tried prior to enactment of the Contract Settlement Act and found unsatisfactory both to industry and the services. The only effect of the formula is to predetermine percentage and amount of profit to be allowed on the termination portion. This is rarely a source of disagreement. Real source of disagreement and, therefore, of delay and possible litigation is almost always the question of whether certain items of cost are applicable. Under a formula settlement, or any settlement procedure other than negotiation, there develops strong tendency to excessive detail over the many thousands of items of cost going into claims. As a result, there are often differences of opinion.

Validity of a negotiated termination agreement is comparable to that of a negotiated procurement contract. Insofar as contracts for aeronautical equipment are concerned, it is desirable that negotiation be recognized as a usual means of Government contracting and settlement of Government obligations.

Authority to negotiate final settlement is particularly important insofar as industry's subcontractor and supplier claims are concerned. Unless the prime contractor is certain the settlement he negotiates is final, he will delay settlements with subcontractors.

Provisions should be made for immediate partial payments on termination claims. This is a financial necessity to both prime and subcontractors: First, because of the large values involved in many prime contracts in relation to the contractor's working capital; second, because in the preliminary stages of preparing a termination claim, supporting material is not in shape to be readily acceptable as collateral for a commercial banking loan.

Many contractors are working with minimum floor space. There is also considerable responsibility and liability connected with storage, preservation and accounting for raw material, equipment, semifinished parts, and other inventory items supporting a termination claim. It is important that Government-owned property be removed from facilities at earliest date.

The CHAIRMAN. The time of the gentleman from California has expired.

(Mr. HOFFMAN of Michigan asked and was given permission to revise and extend his remarks.)

Mr. HOFFMAN of Michigan. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, it is my understanding that one purpose of the bill is to obtain munitions of war at the lowest possible cost, that another is to prevent the making of excess profits on war contracts. The gentleman from Arkansas [Mr. MILLS], when I put a question to him as to the construction of facilities for training those called into the service, just sought to treat it facetiously.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN of Michigan. I yield to the gentleman from Arkansas.

Mr. MILLS. I thought I answered the gentleman's question by saying that that type of contract was covered by this bill.

Mr. HOFFMAN of Michigan. I did not understand that to be the answer at all.

Mr. MILLS. If the gentleman will read the RECORD, he will see.

Mr. HOFFMAN of Michigan. All right; I will read it. What I am getting at is this: As we very well know, during the last war when the Government was called upon to build facilities on two camps within a few miles of Washington the carpenters, the plumbers, the mechanics, artisans, and everyone else who came down here to work on the job was required to pay a union fee of from \$25 up before they could go to work on those jobs. If they did not have the \$25 they had to get a work permit. Two dollars and fifty cents a week they had to pay, and I have some of the permits and receipts that were granted at that time in the office to this day. That may not seem very important, but if we are trying to save money for the Government, why should we not go after that excess profit to the union?

For example, in one case over here, and the hearings in the Senate disclosed it, they collected more than half a million dollars in work-permit fees. Just why should a patriotic American citizen who wants to help build training quarters, perhaps for his son, be required to buy from some organization which is not a Government agency a permit to work, and why should not that practice of levying tribute be stopped just as well as the excess-profits racket—and I am in favor of stopping the excess-profits racket.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN of Michigan. I yield to the gentleman from Arkansas.

Mr. MILLS. I know the gentleman knows more about the subject than I do, but I think the gentleman will agree that there is a provision in the Taft-Hartley Act that applies to this very matter.

Mr. HOFFMAN of Michigan. No.

Mr. MILLS. The question of charging a fee before the man proceeds to work on the job is taken care of in the Taft-Hartley Act by a provision that the fee must not be excessive.

Mr. HOFFMAN of Michigan. No. They not only charge you for a work permit but under the act they can still, as it is enforced or not enforced, levy a

tax or a dues payment on you for political purposes, and they do. So not only you cannot work on a defense job until you have paid the union fee, but you must contribute to the opposition political party.

Mr. Chairman, I yield back the balance of my time.

[Mr. CRAWFORD addressed the Committee. His remarks will appear hereafter in the Appendix.]

Mr. VORYS. Mr. Chairman, I would like to have the attention of the committee to answer this question. Is there anything in this bill which requires all contracts over \$100,000 to be renegotiated?

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. VORYS. I yield.

Mr. MILLS. The bill gives the Renegotiation Board authority to renegotiate all contracts with these seven named departments.

Mr. VORYS. I understand that.

Mr. MILLS. That is, where the contractor himself has received or accrued in excess of \$100,000 within a year's time. I take it that means the Renegotiation Board must look at all such contracts for the purposes of renegotiation. Under the discretionary authority given in the bill, the Board could throw out certain contracts without, shall we say, molesting the contractor, because it appears on the face of the contract that there could not have been excess profits.

Mr. VORYS. That is true. The Board does not have to renegotiate. Take, for instance, a contract for \$100,000,000 with some great corporation for tanks, not within the list of permissive exemptions on pages 27 and 28. The Board might have somebody look at it and if they do not want to renegotiate it and the contractor does not want it renegotiated, there is nothing in the law which requires either party to go through the form of renegotiation when neither the Board nor the contractor think there is anything to be renegotiated. Is that not true?

Mr. MILLS. I presume the gentleman might be correct, if it is clear that the performance of the contract has not resulted in any excess profits. But I would like to ask the gentleman if he will yield further, whether he, as a member of the Board, without some discretionary authority, would feel safe in assuming that responsibility when the Congress had not given him authority to grant exemptions.

Mr. VORYS. I cannot find any limit at all on the Board's discretion to exempt. I am just trying to find out what this bill provides. I cannot find anything in the bill that provides that the Renegotiation Board is required even to review all the contracts. I cannot find anything in there that requires them to renegotiate. Therefore, the Board has the power to play favorites, if you please. It has the power to say to a great big contractor, not within the class of exempted contracts, "We do not think there is any excess profit here. We are not going to send you any notice. We are not going to do anything." The

Board also has the discretion to ignore that contract altogether, and never look at it at all, never do anything at all about it. That company would be perfectly satisfied, and my guess would be there will be thousands of contracts that would never be renegotiated. I just want to find out whether I am correct in my analysis of what this bill provides.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. VORYS. Yes; I yield.

Mr. MILLS. The gentleman has the bill before him. On page 2, beginning in line 9, section 102 says:

The provisions of this title shall be applicable to all contracts within the Departments specifically named.

Mr. VORYS. That is correct.

Mr. MILLS. Further on in the bill the Board is authorized and directed to renegotiate.

Mr. VORYS. Of course there is authority to renegotiate, but where is there any direction to renegotiate? I find on page 12 that renegotiation proceedings shall be commenced by mailing a notice, but I do not find anything in the bill that says there shall be renegotiation proceedings in the case of every contract. I do not think there should be, but I think that the Board's authority and duty ought to be made clear. Frankly, I have not been able to find it. I have asked at both committee tables and I have been unable to have the members direct me to the place in the bill where it says whether or not the Board has to review all contracts.

Mr. SIMPSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. VORYS. Yes; I yield. I am looking for information.

Mr. SIMPSON of Pennsylvania. Is it the gentleman's point that if the Board saw fit there would not necessarily be any renegotiation?

Mr. VORYS. That is right. I think that in the law some place somebody in the Government ought to be required at least to take a quick look over all contracts and either say he does or does not think the contract should be renegotiated.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. CURTIS of Nebraska. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended 1 minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CURTIS of Nebraska. Will the gentleman yield?

Mr. VORYS. I yield.

Mr. CURTIS of Nebraska. I think what the gentleman is contending for is in there, in that the power of the Board to grant exceptions to the law is very definitely limited. That would imply that it applied to all other contracts unless specifically exempted in the act or exempted in the manner provided for in the power delegated to the Board.

Mr. VORYS. It seems to me that if that is all the provision there is in this bill requiring a review of all contracts, it is a poor way to go about it. I have no quarrel with the machinery set up for renegotiation, but it would appear to me that there ought to be some place

in the act where a requirement for some sort of review of all contracts is put in.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. VORYS. I yield.

Mr. COOPER. In that respect it is exactly the same as the law in effect during World War II, and \$200,000,000,000 worth of contracts were renegotiated.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. VORYS] has again expired.

Mr. HINSHAW. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HINSHAW. Is a Member entitled to be recognized twice under a pro forma amendment?

The CHAIRMAN. If the gentleman has another amendment, the Chair will recognize the gentleman.

Mr. HINSHAW. Mr. Chairman, I move to strike out the last three words.

I shall not take all the time allotted. I just want to ask the gentlemen of the committee one more question, if I may, in order to clarify my own thinking concerning this bill, and perhaps clarify it for others. That is in respect to the audits that are to be made. The gentleman from Tennessee [Mr. COOPER] I believe referred to the procedures that were engaged in during World War II and, subsequent thereto, in connection with renegotiation. Audits were made, of course, by the establishment of the Government making the contract. Audits were again made by the renegotiation groups in those agencies at the time that the renegotiation was effected and then all papers were sent to the General Accounting Office where a new and separate audit was to be made at which time, as I understand it, the question of fraud could be brought up.

There were several audits and accountings to be made. Do I read this bill correctly, as providing in one section that after the Board finishes with its audits and after acceptance of renegotiation figures, then there would be no question of fraud brought up in connection with it unless that fraud were palpably evident or something to that effect? Is that a correct statement of the fact?

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. HINSHAW. I yield.

Mr. COOPER. I think the gentleman has made an accurate statement of the situation. Bear in mind that, as I recall, only those cases were subject to review by the General Accounting Office where fraud was alleged.

Mr. HINSHAW. I think the gentleman will find that every one of them has gone to the General Accounting Office and that they have gone over them with a great deal of care.

Mr. MILLS. Mr. Chairman, will the gentleman yield?

Mr. HINSHAW. I yield.

Mr. MILLS. I think the gentleman is right—that all these procurement contracts would ultimately go to the General Accounting Office, but that the General Accounting Office had no general authority to upset a determination that

excessive profits had or had not been shown.

Mr. HINSHAW. No; but the books do go to the General Accounting Office.

Mr. MILLS. The gentleman is correct, because they have to do with procurement.

Mr. HINSHAW. And the General Accounting Office, as I understand, acts for and on behalf of the Congress and declares whether or not certain expenditures are in accordance with the laws of the United States as they interpret them. Is not that correct?

Mr. MILLS. And that the General Accounting Office has made certain declarations with regard to items of cost under the contracts, declarations with which the gentleman from California is familiar.

Mr. HINSHAW. I am just trying to eliminate as many steps as may be possible because of the great expense involved and the long delays that are necessary to accomplish audits of very complicated sets of books.

The CHAIRMAN. There being no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. THOMAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes, pursuant to House Resolution 87, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. DOUGHTON. Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 377, nays 0, not voting 57, as follows:

[Roll No. 7]

YEAS—377

Aandahl	Baker	Bonner
Abbltt	Baring	Bow
Abernethy	Barrett	Bramblett
Adair	Bates, Ky.	Bray
Addonizio	Bates, Mass.	Brehm
Albert	Battle	Brown, Ga.
Allen, Calif.	Beall	Brown, Ohio
Allen, Ill.	Beamer	Brownson
Allen, La.	Beckworth	Bryson
Andersen,	Belcher	Buchanan
H. Carl	Bender	Buckley
Anderson, Calif.	Bennett, Fla.	Burdick
Andresen,	Bennett, Mich.	Burleson
August H.	Bentsen	Burnside
Andrews	Berry	Burton
Anfuso	Betts	Busbey
Arends	Blshop	Bush
Armstrong	Blackney	Butler
Aspinall	Blatnik	Byrne, N. Y.
Auchincloss	Boggs, Del.	Byrnes, Wis.
Ayres	Boggs, La.	Camp
Bailey	Boiling	Canfield

Cannon	Hoffman, Mich.	Poulson
Carlyle	Holifield	Powell
Carnahan	Holmes	Preston
Celler	Hope	Price
Chatham	Horan	Priest
Chenoweth	Howell	Prouty
Chiperfield	Hull	Radwan
Chudoff	Hunter	Rains
Church	Jackson, Calif.	Ramsay
Clemente	James	Rankin
Clevenger	Jarman	Reams
Cooley	Javits	Redden
Cooper	Jenison	Reece, Tenn.
Corbett	Jenkins	Reed, Ill.
Cotton	Jensen	Reed, N. Y.
Cox	Johnson	Rees, Kans.
Crawford	Jonas	Regan
Crumpacker	Jones, Ala.	Rhodes
Cunningham	Jones, Mo.	Ribicoff
Curtis, Mo.	Jones,	Richards
Curtis, Nebr.	Woodrow W.	Riehlman
Dague	Judd	Riley
Davis, Ga.	Karsten, Mo.	Rivers
Davis, Tenn.	Kearney	Roberts
Davis, Wis.	Kearns	Robeson
Dawson	Keating	Rodino
Deane	Kelley, Pa.	Rogers, Colo.
Delaney	Kelly, N. Y.	Rogers, Fla.
Dempsey	Keogh	Rogers, Mass.
Denny	Kerr	Rogers, Tex.
Denton	Kersten, Wis.	Roosevelt
Devereux	Kilburn	Sadlak
D'Ewart	Kilday	St. George
Dollinger	King	Sasser
Dolliver	Kirwan	Saylor
Dondero	Klein	Schwabe
Donohue	Kluczynski	Scott,
Donovan	Lane	Hugh D. Jr.
Dorn	Lanham	Scrivner
Doughton	Lantaff	Sculderr
Doyle	Larcade	Secrest
Eberharter	Latham	Seely-Brown
Elliott	LeCompte	Shafer
Ellsworth	Lesinski	Sheehan
Elston	Lind	Shelley
Engle	Lovre	Sheppard
Ewins	Lucas	Short
Fallon	Lyle	Sieminski
Feighan	McCarthy	Sikes
Fellows	McConnell	Simpson, Ill.
Fenton	McCormack	Simpson, Pa.
Fine	McCulloch	Sittler
Fogarty	McDonough	Smith, Kans.
Forand	McGregor	Smith, Miss.
Ford	McGuire	Smith, Wis.
Forrester	McKinnon	Spence
Frazier	McMillan	Springer
Fugate	McMullen	Staggers
Fulton	McVey	Stanley
Furcolo	Machrowicz	Steed
Garmatz	Mack, Ill.	Stefan
Gary	Mack, Wash.	Stigler
Gathings	Madden	Stockman
Gavin	Mahon	Sullivan
George	Mansfield	Sutton
Golden	Martin, Iowa	Taber
Goodwin	Martin, Mass.	Talle
Gordon	Mason	Taylor
Gore	Meader	Teague
Gossett	Morrow	Thomas
Graham	Miller, Calif.	Thompson,
Granahan	Miller, Md.	Mich.
Granger	Miller, Nebr.	Thompson, Tex.
Grant	Miller, N. Y.	Thornberry
Green	Mills	Tollefson
Greenwood	Mitchell	Towe
Gregory	Morano	Trimble
Gross	Morgan	Underwood
Gwinn	Morris	Vail
Hagen	Morton	Van Felt
Hale	Moulder	Van Zandt
Hall,	Multer	Vaughn
Edwin Arthur	Mumma	Vinson
Hall,	Murdoch	Vorys
Leonard W.	Murphy	Vursell
Halleck	Murray, Tenn.	Welch
Hand	Murray, Wis.	Welch
Harden	Nelson	Werdell
Hardy	Nicholson	Wharton
Harris	Norblad	Wheeler
Harrison, Va.	Norrell	Whitaker
Harrison, Wyo.	O'Brien, Ill.	Whitten
Hart	O'Brien, Mich.	Wickersham
Harvey	O'Hara	Widnall
Havenner	O'Neill	Wier
Hays, Ark.	Ostertag	Williams, Miss.
Hays, Ohio	Passman	Williams, N. Y.
Heffernan	Patman	Willis
Heller	Patten	Wilson, Ind.
Herlong	Patterson	Wilson, Tex.
Heseltun	Perkins	Winstead
Hess	Philbin	Withrow
Hill	Phillips	Wolverton
Hillings	Pickett	Wood, Idaho
Hinshaw	Polk	Yates
Hoeven	Potter	Yorty

NOT VOTING—57

Angell	Eaton	Morrison
Barden	Fernandez	O'Konski
Bolton	Fisher	O'Toole
Bosone	Flood	Poage
Boykin	Gamble	Quinn
Breen	Gillette	Rabaut
Brooks	Hébert	Rooney
Budge	Hedrick	Sabath
Buffett	Herter	Scott, Hardie
Case	Hoffman, Ill.	Smith, Va.
Chelf	Irving	Tackett
Cole, Kans.	Jackson, Wash.	Velde
Cole, N. Y.	Jones,	Walter
Colmer	Hamilton C.	Wigglesworth
Combs	Kean	Wolcott
Coudert	Kee	Wood, Ga.
Crosser	Kennedy	Woodruff
DeGraffenried	McGrath	Zablocki
Dingell	Magee	
Durham	Marshall	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Durham with Mr. Kean.
Mr. McGrath with Mr. Hoffman of Illinois.
Mr. Jackson of Washington with Mr. Gillette.
Mr. Sabath with Mr. Velde.
Mr. deGraffenried with Mr. Wigglesworth.
Mr. Rooney with Mr. Budge.
Mr. Combs with Mr. Hugh D. Scott, Jr.
Mr. Dingell with Mr. Cole of New York.
Mr. Tackett with Mr. Eaton.
Mr. Rabaut with Mr. Coudert.
Mr. Quinn with Mr. Case.
Mr. Morrison with Mr. Wolcott.
Mr. Walter with Mr. Herter.
Mr. Colmer with Mr. Cole of Kansas.
Mr. Fernandez with Mr. Woodruff.
Mr. Hébert with Mr. Gamble.
Mr. Zablocki with Mr. Angell.
Mr. Kennedy with Mrs. Bolton.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SPECIAL ORDER GRANTED

Mr. BONNER (at the request of Mr. MILLS) was given permission to address the House for 20 minutes on Thursday next, following the legislative program and any special orders heretofore entered.

CALENDAR WEDNESDAY

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday may be dispensed with this week.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERSONAL EXPLANATION

Mrs. BOLTON. Mr. Speaker, I was here but unable to answer to my name on the last roll call; I did not hear my name called. I would have voted "aye" on that roll call.

PERMISSION TO ADDRESS THE HOUSE

Mr. JAVITS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

THE PACIFIC PACT

Mr. JAVITS. Mr. Speaker, a bipartisan group of eight members of the Committee on Foreign Affairs—Representatives BATTLE, JUDD, MANSFIELD, MERROW, MORGAN, RIBICOFF, ZABLOCKI,

and myself—is today sponsoring a resolution seeking a Pacific pact for the Pacific Ocean area. Two members of this group—Mr. RIBICOFF and myself—are also today sponsoring a resolution favoring an organization for far eastern economic cooperation. Both programs of self-help and mutual cooperation for defense and for economic development are to be joined in by the United States. These efforts are to be considered in the context of the negotiation of the Japanese Peace Treaty for which John Foster Dulles left yesterday.

The resolutions represent together an affirmative United States foreign policy for the Far East, with the primary responsibility placed where it belongs, on the peoples affected, but with the United States backing them in their efforts. It recognizes the fact that the eastern shore of the Pacific Ocean is the strategic frontier of the United States itself. This effort initiated today recognizes the adulthood of the free peoples of Asia and puts them on a parity in American consideration with the mature nations of Western Europe with whom we have developed the Atlantic Pact and the European recovery program. In such a framework of regional organization within the United Nations Charter, the development of Japanese military capabilities for the defense of the Japanese islands and of Japanese industrial production for the economic improvement so urgently needed by the free peoples of Asia, can proceed without the overhanging fear that a new aggressor "Frankenstein" might be created.

Had this action been taken a year and a half ago when we first initiated these proposals, we would not now be facing so desperate a situation with respect to the Far East. Yet it is never too late to try to correct past errors and the Dulles mission gives us a new point of departure for a Pacific pact and an opportunity for far eastern economic cooperation we should not miss.

PERMISSION TO ADDRESS THE HOUSE

Mr. PHILLIPS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PRICE AND WAGE CONTROL

Mr. PHILLIPS. Mr. Speaker, anti-inflation controls over prices and wages are almost with us. Naturally, we are reluctant to accept these controls, but without them, and with an administration which makes no effort to restrain this Government's spending, the great mass of people would be unfairly hurt.

The mention of controls naturally brings to mind the complicated problem of enforcement. During the last war under OPA, we saw the growth of a huge bureau of policemen, who labored to first fix, then enforce, price levels on almost every item sold in open commerce. This was extremely wasteful, in money and manpower. Simpler methods could have been devised, as they were in

World War I, and I know the man in charge this time, Mr. Eric Johnston, will realize that the public will be glad to do a major part of the policing job free.

The secret, of course, is making known to the public the controlled prices of the items for sale. These prices should be posted in stores, and published in newspapers. The buying public will take care of the merchant who overcharges. Nothing registers more quickly with a merchant than a lack of customers.

EXTENSION OF REMARKS

Mr. MARTIN of Iowa asked and was given permission to extend his remarks and include an article by Vannevar Bush.

Mrs. ST. GEORGE and Mr. POULSON asked and were given permission to extend their remarks.

Mr. MCGREGOR asked and was given permission to revise and extend the remarks he made in the Committee of the Whole today.

Mr. D'EWART asked and was given permission to extend his remarks and include an editorial.

Mr. JUDD asked and was given permission to extend his remarks in three instances and include extraneous matter.

Mr. LANE asked and was given permission to extend his remarks in four instances—and in one to include an address he delivered over Station WMEX, in another an address he delivered last Saturday night, and in the other two instances extraneous matter.

Mr. UNDERWOOD asked and was given permission to extend his remarks in regard to the use of horses and mules in Korea.

Mr. KELLEY of Pennsylvania asked and was given permission to extend his remarks and include an article from the Nation's Business.

Mr. BARRETT asked and was given permission to extend his remarks and include an editorial from the Philadelphia Daily News.

Mr. HAYS of Arkansas asked and was given permission to extend his remarks.

Mr. WILLIAMS of Mississippi (at the request of Mr. RIVERS) was given permission to extend his remarks.

Mr. RIVERS asked and was given permission to extend his remarks and include the inaugural address of the distinguished new Governor of the State of South Carolina, Hon. James F. Byrnes.

Mr. KLEIN asked and was given permission to extend his remarks in five instances, and in each include extraneous matter.

Mr. MCGUIRE asked and was given permission to extend his remarks and include two editorials.

Mr. MULTER asked and was given permission to extend his remarks in five instances and in each include extraneous matter.

Mr. WILLIAMS of Mississippi (at the request of Mr. PRESTON) was given permission to extend his remarks and include extraneous matter.

Mr. WITHROW asked and was given permission to extend his remarks and include an editorial from the Wisconsin Daily News, written by W. P. Kennedy, president of the Brotherhood of Railroad Trainmen.

Mr. AUGUST H. ANDRESEN asked and was given permission to extend his remarks and include an editorial.

Mr. TABER asked and was given permission to extend his remarks and include a radio address he made on Friday.

Mr. PHILLIPS asked and was given permission to extend his remarks and include a telegram.

Mr. HINSHAW (at the request of Mr. MARTIN of Massachusetts) was given permission to revise and extend the remarks he made in the Committee of the Whole earlier today and include certain quotations.

Mr. GAVIN (at the request of Mr. MARTIN of Massachusetts) was given permission to extend his remarks.

Mr. WOLVERTON asked and was given permission to extend his remarks in two instances, and in each include extraneous matter.

Mr. SHAFER asked and was given permission to extend his remarks in two instances.

Mr. EDWIN ARTHUR HALL asked and was given permission to extend his remarks.

Mr. MORANO asked and was given permission to extend his remarks and include an article from the Greenwich Times of Greenwich, Conn.

Mr. MACK of Washington asked and was given permission to extend his remarks in two instances, and in each include extraneous matter.

Mr. TOLLEFSON asked and was given permission to extend his remarks in three instances, and in each include extraneous matter.

Mr. McDONOUGH asked and was given permission to extend his remarks and include an editorial from the Hollywood Citizen News.

Mr. DOYLE asked and was given permission to extend his remarks in two instances and include appropriate material.

Mr. DOLLINGER asked and was given permission to extend his remarks and include extraneous matter.

PERMISSION TO ADDRESS THE HOUSE

Mr. TACKETT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

ANNOUNCEMENT

Mr. TACKETT. Mr. Speaker, I was on the floor of the House and participated in the debate on the bill just passed, but was called out of the Chamber and did not hear the bells ring announcing the roll call. For that reason I was not present at the time the roll was called. Had I been present I would have voted "yea."

MEMBERS OF JOINT COMMITTEES OF CONGRESS

Mr. STANLEY. Mr. Speaker, I offer a resolution, House Resolution 91, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the following-named Members be, and they are hereby, elected mem-

82D CONGRESS
1ST SESSION

H. R. 1724

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 8), 1951

Read twice and referred to the Committee on Finance

AN ACT

To provide for the renegotiation of contracts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Renegotiation Act of
4 1951".

5 **TITLE I—RENEGOTIATION OF CONTRACTS**

6 **SEC. 101. DECLARATION OF POLICY.**

7 It is hereby recognized and declared that the Congress
8 has made available for the execution of the national defense
9 program extensive funds, by appropriation and otherwise,
10 for the procurement of property, processes, and services, and
11 the construction of facilities necessary for the national de-

1 fense; that sound execution of the national defense program
2 requires the elimination of excessive profits from contracts
3 made with the United States, and from related subcontracts,
4 in the course of said program; and that the considered policy
5 of the Congress, in the interests of the national defense and
6 the general welfare of the Nation, requires that such excessive
7 profits be eliminated as provided in this title.

8 **SEC. 102. CONTRACTS SUBJECT TO RENEGOTIATION.**

9 (a) IN GENERAL.—The provisions of this title shall
10 be applicable (1) to all contracts with the Depart-
11 ments specifically named in section 103 (a), and
12 related subcontracts, to the extent of the amounts received
13 or accrued by a contractor or subcontractor on or after
14 the first day of January 1951, whether such contracts
15 or subcontracts were made on, before, or after such first
16 day, and (2) to all contracts with the Departments desig-
17 nated by the President under section 103 (a), and related
18 subcontracts, to the extent of the amounts received or accrued
19 by a contractor or subcontractor on or after the first day of
20 the first month beginning after the date of such designation,
21 whether such contracts or subcontracts were made on,
22 before, or after such first day; but the provisions of this
23 title shall not be applicable to receipts or accruals attribut-
24 able to performance, under contracts or subcontracts, after
25 December 31, 1953.

1 (b) RENEGOTIATION ACT OF 1948.—The Renegotia-
2 tion Act of 1948 shall not apply with respect to any receipts
3 or accruals subject to renegotiation under this title. If a
4 contractor or subcontractor, during the same fiscal year
5 in which he has receipts or accruals subject to renegotiation
6 under this title, has other receipts or accruals from con-
7 tracts or subcontracts subject to renegotiation under the
8 Renegotiation Act of 1948, the provisions of this title
9 shall, notwithstanding subsection (a), apply to such
10 other receipts or accruals if the Board and such con-
11 tractor or subcontractor agree to such application of
12 this title; and in the case of such an agreement the provisions
13 of the Renegotiation Act of 1948 shall not apply to such
14 other receipts or accruals of the fiscal year.

15 (c) SUSPENSION OF CERTAIN PROFIT LIMITATIONS.—
16 Notwithstanding any agreement to the contrary, the profit-
17 limitation provisions of the Act of March 27, 1934 (48
18 Stat. 503, 505), as amended and supplemented, shall not
19 apply to any contract or subcontract if any of the receipts
20 or accruals therefrom are subject to this title.

21 SEC. 103. DEFINITIONS.

22 For the purposes of this title—

23 (a) DEPARTMENT.—The term “Department” means
24 the Department of Defense, the Department of the Army,
25 the Department of the Navy, the Department of the Air

1 Force, the Department of Commerce, the General Services
2 Administration, the Atomic Energy Commission, and
3 such other agencies of the Government exercising functions
4 in connection with the national defense as the President shall
5 designate.

6 (b) SECRETARY.—The term “Secretary” means the
7 Secretary of Defense, the Secretary of the Army, the Secre-
8 tary of the Navy, the Secretary of the Air Force, the Sec-
9 retary of Commerce, the Administrator of General Services,
10 the Atomic Energy Commission, and the head of any other
11 agency of the Government which the President shall desig-
12 nate pursuant to subsection (a) of this section.

13 (c) BOARD.—The term “Board” means the Renegotia-
14 tion Board created by section 107 (a) of this Act.

15 (d) RENEGOTIATE AND RENEGOTIATION.—The terms
16 “renegotiate” and “renegotiation” include a determination
17 by agreement or order under this title of the amount of any
18 excessive profits.

19 (e) EXCESSIVE PROFITS.—The term “excessive profits”
20 means the portion of the profits derived from contracts with
21 the Departments and subcontracts which is determined in
22 accordance with this title to be excessive. In determining
23 excessive profits there shall be taken into consideration the
24 following factors:

25 (1) Efficiency of contractor, with particular regard

to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower;

(2) Reasonableness of costs and profits, with particular regard to volume of production, normal earnings, and comparison of war and peacetime products;

(3) Reasonableness of return on net worth, with particular regard to the amount and source of public and private capital employed;

(4) Extent of risk assumed, including the risk incident to reasonable pricing policies;

(5) Nature and extent of contribution to the defense effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance;

(6) Character of business, including source and nature of materials, complexity of manufacturing technique, character and extent of subcontracting, and rate of turn-over;

(7) Such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted.

(f) PROFITS DERIVED FROM CONTRACTS WITH THE DEPARTMENTS AND SUBCONTRACTS.—The term “profits de-

1 rived from contracts with the Departments and subcon-
2 tracts" means the excess of the amount received or accrued
3 under such contracts and subcontracts over the costs paid
4 or incurred with respect thereto and determined to be
5 allocable thereto. All items estimated to be allowable as
6 deductions and exclusions under chapter 1 of the Internal
7 Revenue Code (excluding taxes measured by income) shall,
8 to the extent allocable to such contracts and subcontracts,
9 be allowed as items of cost, except that no amount shall be
10 allowed as an item of cost by reason of the application
11 of a carry-over or carry-back. Such costs shall be deter-
12 mined in accordance with the method of cost accounting
13 regularly employed by the contractor or subcontractor in
14 keeping his books, but, if no such method of cost accounting
15 has been employed, or if the method so employed does not,
16 in the opinion of the Board, or, upon redetermination, in
17 the opinion of The Tax Court of the United States, properly
18 reflect such costs, such costs shall be determined in accord-
19 ance with such method as in the opinion of the Board, or,
20 upon redetermination, in the opinion of The Tax Court of
21 the United States, does properly reflect such costs. Irre-
22 spective of the method employed or prescribed for determin-
23 ing such costs, no item of cost shall be charged to contracts
24 with the Departments or subcontracts or used in any manner

1 for the purpose of determining such costs, to the extent that,
2 in the opinion of the Board, or, upon redetermination, in
3 the opinion of The Tax Court of the United States, such
4 item is unreasonable or not properly chargeable to such con-
5 tracts or subcontracts. In determining the amount of exces-
6 sive profits to be eliminated, proper adjustment shall be
7 made on account of the taxes measured by income, other
8 than Federal taxes, which are attributable to the portion of
9 the profits which are not excessive.

10 (g) SUBCONTRACT.—The term “subcontract” means—

11 (1) any purchase order or agreement (including
12 purchase orders or agreements antedating the related
13 prime contract or higher tier subcontract) to perform
14 all or any part of the work, or to make or furnish any
15 materials, required for the performance of any other
16 contract or subcontract;

17 (2) any contract or arrangement covering the right
18 to use any patented or secret method, formula, or device
19 for the performance of a contract or subcontract; and

20 (3) any contract or arrangement (other than a con-
21 tract or arrangement between two contracting parties,
22 one of whom is found by the Board to be a bona fide
23 executive officer, partner, or full-time employee of the
24 other contracting party) under which—

1 (A) any amount payable is contingent upon
2 the procurement of a contract or contracts with a
3 Department or of a subcontract or subcontracts; or

4 (B) any amount payable is determined with
5 reference to the amount of a contract or contracts
6 with a Department or of a subcontract or subcon-
7 tracts; or

8 (C) any part of the services performed or to
9 be performed consists of the soliciting, attempting to
10 procure, or procuring a contract or contracts with a
11 Department or a subcontract or subcontracts.

12 Nothing in this subsection shall be construed (i) to affect in
13 any way the validity or construction of provisions in any
14 contract with a Department or any subcontract, heretofore
15 at any time or hereafter made, prohibiting the payment of
16 contingent fees or commissions; or (ii) to restrict in any
17 way the authority of the Board to determine the nature or
18 amount of selling expense under subcontracts as defined in
19 this subsection, as a proper element of the contract price
20 or as a reimbursable item of cost, under a contract with a
21 Department or a subcontract.

22 (h) FISCAL YEAR.—The term “fiscal year” means,
23 except in the case of a partnership as defined in section
24 3797 (a) (2) of the Internal Revenue Code, the taxable

1 year of the contractor or subcontractor under chapter 1 of
2 such code. In the case of a partnership as so defined the
3 term "fiscal year" means such period as the Board by regu-
4 lations may prescribe.

5 (i) RECEIVED OR ACCRUED AND PAID OR INCURRED.—
6 The terms "received or accrued" and "paid or incurred"
7 shall be construed according to the method of accounting
8 employed by the contractor or subcontractor in keeping his
9 books, but if no such method of accounting has been em-
10 ployed, or if the method so employed does not, in the
11 opinion of the Board, or, upon redetermination, in the
12 opinion of The Tax Court of the United States, properly
13 reflect his receipts or accruals or payments or obligations,
14 such receipts or accruals or such payments or obligations
15 shall be determined in accordance with such method as in
16 the opinion of the Board, or, upon redetermination, in the
17 opinion of The Tax Court of the United States, does properly
18 reflect such receipts or accruals or such payments or
19 obligations.

20 (j) PERSON.—The term "person" shall include an indi-
21 vidual, firm, corporation, association, partnership, and any
22 organized group of persons whether or not incorporated.

23 (k) MATERIALS.—The term "materials" shall include

1 raw materials, articles, commodities, parts, assemblies, prod-
2 ucts, machinery, equipment, supplies, components, technical
3 data, processes, and other personal property.

4 (1) AGENCY OF THE GOVERNMENT.—The term “agency
5 of the Government” means any part of the executive branch
6 of the Government or any independent establishment of
7 the Government or part thereof, including any department
8 (whether or not a Department as defined in subsection (a)
9 of this section), any corporation wholly or partly owned by
10 the United States which is an instrumentality of the United
11 States, or any board, bureau, division, service, office, officer,
12 employee, authority, administration, or other establishment
13 of the Government which is not a part of the legislative or
14 judicial branches.

15 **SEC. 104. RENEGOTIATION CLAUSE IN CONTRACTS.**

16 Subject to section 106 (a), the Secretary of each
17 Department specifically named in section 103 (a) shall
18 insert in each contract made by such Department thirty
19 days or more after the date of the enactment of this Act,
20 and the Secretary of each Department designated by the
21 President under section 103 (a) shall insert in each contract
22 made by such Department thirty days or more after the date
23 of such designation, a provision under which the contractor
24 agrees—

1 (1) to the elimination of excessive profits through
2 renegotiation;

3 (2) that there may be withheld by the United
4 States from amounts otherwise due the contractor, or
5 that he will repay to the United States, if paid to him,
6 any excessive profits;

7 (3) that he will insert in each subcontract described
8 in section 103 (g) a provision under which the subcon-
9 tractor agrees—

10 (A) to the elimination of excessive profits
11 through renegotiation;

12 (B) that there may be withheld by the con-
13 tractor for the United States from amounts other-
14 wise due to the subcontractor, or that the subcon-
15 tractor will repay to the United States, if paid to
16 him, any excessive profits;

17 (C) that the contractor shall be relieved of all
18 liability to the subcontractor on account of any
19 amount so withheld, or so repaid by the subcon-
20 tractor to the United States;

21 (D) that he will insert in each subcontract
22 described in section 103 (g) provisions correspond-
23 ing to those of subparagraphs (A), (B), and (C),
24 and to those of this subparagraph;

1 (4) that there may be withheld by the United
2 States from amounts otherwise due the contractor, or
3 that he will repay to the United States, as the Secretary
4 may direct, any amounts which under section 105 (b)
5 (1) (C) the contractor is directed to withhold from a
6 subcontractor and which are actually unpaid at the time
7 the contractor receives such direction.

8 The obligations assumed by the contractor or subcontractor
9 under paragraph (1) or (3) (A), as the case may be,
10 agreeing to the elimination of excessive profits through re-
11 negotiation shall be binding on him only if the contract or
12 subcontract, as the case may be, is subject to this title. A
13 provision inserted in a contract or subcontract, which recites
14 in substance that the contract or subcontract shall be deemed
15 to contain all the provisions required by this section shall be
16 sufficient compliance with this section. Whether or not the
17 provisions specified in this section are inserted in a contract
18 with a Department or subcontract, to which this title is
19 applicable, such contract or subcontract, as the case may be,
20 shall be considered as having been made subject to this title
21 in the same manner and to the same extent as if such pro-
22 visions had been inserted.

23 **SEC. 105. RENEGOTIATION PROCEEDINGS.**

24 (a) **PROCEEDINGS BEFORE THE BOARD.**—Renegotiation
25 proceedings shall be commenced by the mailing of notice to

1 that effect, in such form as may be prescribed by regulation,
2 by registered mail to the contractor or subcontractor. The
3 Board shall endeavor to make an agreement with the con-
4 tractor or subcontractor with respect to the elimination of
5 excessive profits received or accrued, and with respect to
6 such other matters relating thereto as the Board deems ad-
7 visable. Any such agreement, if made, may, with the con-
8 sent of the contractor or subcontractor, also include provi-
9 sions with respect to the elimination of excessive profits
10 likely to be received or accrued. If the Board does not make
11 an agreement with respect to the elimination of excessive
12 profits received or accrued, it shall issue and enter an order
13 determining the amount, if any, of such excessive profits,
14 and forthwith give notice thereof by registered mail to the
15 contractor or subcontractor. In the absence of the filing of
16 a petition with The Tax Court of the United States under
17 the provisions of and within the time limit prescribed in
18 section 108, such order shall be final and conclusive and shall
19 not be subject to review or redetermination by any court or
20 other agency. The Board shall exercise its powers with
21 respect to the aggregate of the amounts received or accrued
22 during the fiscal year (or such other period as may be fixed
23 by mutual agreement) by a contractor or subcontractor
24 under contracts with the Departments and subcontracts, and
25 not separately with respect to amounts received or accrued

1 under separate contracts with the Departments or subcon-
2 tracts, except that the Board may exercise such powers
3 separately with respect to amounts received or accrued by
4 the contractor or subcontractor under any one or more sepa-
5 rate contracts with the Departments or subcontracts at the
6 request of the contractor or subcontractor. By agreement
7 with any contractor or subcontractor, and pursuant to regu-
8 lations promulgated by it, the Board may in its discretion
9 conduct renegotiation on a consolidated basis in order prop-
10 erly to reflect excessive profits of two or more related con-
11 tractors or subcontractors. Whenever the Board makes a
12 determination with respect to the amount of excessive profits,
13 and such determination is made by order, it shall, at the
14 request of the contractor or subcontractor, as the case may
15 be, prepare and furnish such contractor or subcontractor with
16 a statement of such determination, of the facts used as a
17 basis therefor, and of its reasons for such determination.
18 Such statement shall not be used in The Tax Court of the
19 United States as proof of the facts or conclusions stated
20 therein.

21 (b) METHODS OF ELIMINATING EXCESSIVE PROFITS.—

22 (1) IN GENERAL.—Upon the making of an agree-
23 ment, or the entry of an order, under subsection (a) of
24 this section by the Board, or the entry of an order
25 under section 108 by The Tax Court of the United

1 States, determining excessive profits, the Board shall
2 forthwith authorize and direct the Secretaries or any of
3 them to eliminate such excessive profits—

4 (A) by reductions in the amounts otherwise
5 payable to the contractor under contracts with the
6 Departments, or by other revision of their terms;

7 (B) by withholding from amounts otherwise
8 due to the contractor any amount of such excessive
9 profits;

10 (C) by directing any person having a contract
11 with any agency of the Government, or any sub-
12 contractor thereunder, to withhold for the account
13 of the United States from any amounts otherwise due
14 from such person or such subcontractor to a con-
15 tractor, or subcontractor, having excessive profits to
16 be eliminated, and every such person or sub-
17 contractor receiving such direction shall withhold
18 and pay over to the United States the amounts
19 so required to be withheld;

20 (D) by recovery from the contractor or sub-
21 contractor, or from any person or subcontractor
22 directed under subparagraph (C) to withhold for
23 the account of the United States, through payment,
24 repayment, credit, or suit any amount of such
25 excessive profits realized by the contractor or sub-

1 contractor or directed under subparagraph (C) to
2 be withheld for the account of the United States; or
3 (E) by any combination of these methods, as
4 is deemed desirable.

5 (2) INTEREST.—Interest at the rate of 6 per
6 centum per annum shall accrue and be paid on the
7 amount of such excessive profits from the date fixed for
8 repayment by the order of the Board or by the agree-
9 ment with the contractor or subcontractor to the date of
10 repayment, and on amounts required to be withheld by
11 any person or subcontractor for the account of the
12 United States pursuant to paragraph (1) (C), from
13 the date payment is demanded by the Secretaries or
14 any of them to the date of payment. When The Tax
15 Court of the United States, under section 108, redeter-
16 mines the amount of excessive profits received or accrued
17 by a contractor or subcontractor, interest at the rate of
18 6 per centum per annum shall accrue and be paid by
19 such contractor or subcontractor as follows:

20 (A) When the amount of excessive profits
21 determined by the Tax Court is greater than the
22 amount determined by the Board, interest shall
23 accrue and be paid on the amount determined by the
24 Board from the date originally fixed by the Board for
25 its repayment to the date of repayment and, in

1 addition thereto, interest shall accrue and be paid
2 on the additional amount determined by the Tax
3 Court from the date of its order determining such
4 excessive profits to the date of repayment.

5 (B) When the amount of excessive profits
6 determined by the Tax Court is equal to the amount
7 determined by the Board, interest shall accrue and
8 be paid on such amount from the date originally fixed
9 by the Board for its repayment to the date of
10 repayment.

11 (C) When the amount of excessive profits
12 determined by the Tax Court is less than the amount
13 determined by the Board, interest shall accrue and be
14 paid on such lesser amount from the date originally
15 fixed for repayment by the Board to the date of
16 repayment.

17 (3) SUITS FOR RECOVERY.—Actions on behalf of
18 the United States may be brought in the appropriate
19 courts of the United States to recover, (A) from the
20 contractor or subcontractor, any amount of such ex-
21 cessive profits and accrued interest not withheld or
22 eliminated by some other method under this subsection,
23 and (B) from any person or subcontractor who has been
24 directed under paragraph (1) (C) of this subsection

1 to withhold for the account of the United States, the
2 amounts required to be withheld under such paragraph,
3 together with accrued interest thereon.

4 (4) SURETIES.—The surety under a contract or
5 subcontract shall not be liable for the repayment of any
6 excessive profits thereon.

7 (5) INDEMNIFICATION.—Each person is hereby
8 indemnified by the United States against all claims on
9 account of amounts withheld by such person pursuant
10 to this subsection from a contractor or subcontractor and
11 paid over to the United States.

12 (6) TREATMENT OF RECOVERIES.—All money re-
13 covered in respect to amounts paid to a contractor from
14 appropriations from the Treasury by way of repayment
15 or suit under this subsection shall be covered into the
16 Treasury as miscellaneous receipts. Upon the withhold-
17 ing of any amount of excessive profits or the crediting of
18 any amount of excessive profits against amounts other-
19 wise due a contractor, the Secretary shall certify the
20 amount thereof to the Treasury and the appropriations
21 of his Department shall be reduced by an amount equal
22 to the amount so withheld or credited. The amount of
23 such reductions shall be transferred to the surplus fund
24 of the Treasury. All money recovered in respect of
25 amounts paid to the contractor from corporate or other

1 revolving funds (other than appropriations from the
2 Treasury) by way of repayment, withholding, crediting,
3 or suit under this section shall be restored to such funds.

4 The Board is authorized to make regulations giving effect
5 to the intent of this provision in respect of money recov-
6 ered representing subcontract excessive profits not readily
7 identifiable as to the public funds ultimately reflecting
8 charges therefor.

9 (7) CREDIT FOR TAXES PAID.—In eliminating ex-
10 cessive profits, the Secretary shall allow the contractor
11 or subcontractor credit for Federal income and excess
12 profits taxes as provided in section 3806 of the Internal
13 Revenue Code.

14 (c) PERIODS OF LIMITATIONS.—No proceeding to de-
15 termine the amount of excessive profits for any fiscal year
16 shall be commenced more than one year after the state-
17 ment required under subsection (e) (1) of this section is
18 filed with the Board with respect to such year, and, if such
19 proceeding is not commenced prior to the expiration of
20 one year following the date upon which such statement is so
21 filed, all liabilities of the contractor or subcontractor for
22 excessive profits received or accrued during such fiscal year
23 shall thereupon be discharged. If an agreement or order
24 determining the amount of excessive profits is not made
25 within two years following the commencement of the re-

1 negotiation proceeding, then upon the expiration of such
2 two years all liabilities of the contractor or subcontractor
3 for excessive profits with respect to which such proceeding
4 was commenced shall thereupon be discharged, except that
5 (1) if an order is made within such two years pursuant
6 to a delegation of authority under subsection (d) of section
7 107, such two-year limitation shall not apply to review of
8 such order by the Board, and (2) such two-year period
9 may be extended by mutual agreement.

10 (d) AGREEMENTS TO ELIMINATE EXCESSIVE PROF-
11 ITS.—For the purposes of this title the Board may make final
12 or other agreements with a contractor or subcontractor for
13 the elimination of excessive profits and for the discharge of
14 any liability for excessive profits under this title. Such agree-
15 ments may contain such terms and conditions as the Board
16 deems advisable. Any such agreement shall be conclusive
17 according to its terms; and, except upon a showing of fraud
18 or malfeasance or a willful misrepresentation of a material
19 fact, (1) such agreement shall not for the purposes of this
20 title be reopened as to the matters agreed upon, and shall not
21 be modified by any officer, employee, or agent of the United
22 States, and (2) such agreement and any determination made
23 in accordance therewith shall not be annulled, modified, set
24 aside, or disregarded in any suit, action, or proceeding. Not-
25 withstanding any other provision of this title, however, the

1 Board shall have the power, pursuant to regulations promul-
2 gated by it, to modify any agreement or order for the purpose
3 of extending the time for payment of sums due under such
4 agreement or order.

5 (e) INFORMATION AVAILABLE TO BOARD.—

6 (1) FURNISHING OF FINANCIAL STATEMENTS,
7 ETC.—Every person who holds contracts or subcontracts,
8 to which the provisions of this title are applicable, shall,
9 in such form and detail as the Board may by regulations
10 prescribe, file with the Board, on or before the first day
11 of the fourth calendar month following the close of his
12 fiscal year, a financial statement setting forth such
13 information as the Board may by regulations prescribe
14 as necessary to carry out this title. In addition to the
15 statement required under the preceding sentence, every
16 such person shall, at such time or times and in such form
17 and detail as the Board may by regulations prescribe,
18 furnish the Board any information, records, or data which
19 are determined by the Board to be necessary to carry out
20 this title. Any person who willfully fails or refuses to
21 furnish any statement, information, records, or data re-
22 quired of him under this subsection, or who knowingly
23 furnishes any such statement, information, records, or
24 data containing information which is false or misleading

1 in any material respect, shall, upon conviction thereof, be
2 punished by a fine of not more than \$10,000 or impris-
3 onment for not more than one year, or both.

4 (2) AUDIT OF BOOKS AND RECORDS.—For the pur-
5 pose of this title, the Board shall have the right to audit
6 the books and records of any contractor or subcontractor
7 subject to this title. In the interest of economy and
8 the avoidance of duplication of inspection and audit, the
9 services of the Bureau of Internal Revenue shall, upon
10 request of the Board and the approval of the Secretary
11 of the Treasury, be made available to the extent deter-
12 mined by the Secretary of the Treasury for the purpose
13 of making examinations and audits under this title.

14 (f) MINIMUM AMOUNTS SUBJECT TO RENEGOTIA-
15 TION.—

16 (1) IN GENERAL.—If the aggregate of the amounts
17 received or accrued during a fiscal year (and on or after
18 the applicable effective date specified in section 102
19 (a)) by a contractor or subcontractor, and all persons
20 under control of or controlling or under common con-
21 trol with the contractor or subcontractor, under contracts
22 with the Departments and subcontracts described in
23 section 103 (g) (1) and (2), is not more than
24 \$100,000, the receipts or accruals from such contracts
25 and subcontracts shall not, for such fiscal year, be re-

1 negotiated under this title. If the aggregate of such
2 amounts received or accrued during the fiscal year under
3 such contracts and subcontracts is more than \$100,000,
4 no determination of excessive profits to be eliminated
5 for such year with respect to such contracts and subcon-
6 tracts shall be in an amount greater than the amount
7 by which such aggregate exceeds \$100,000.

8 (2) SUBCONTRACTS DESCRIBED IN SECTION 103
9 (g) (3).—If the aggregate of the amounts received or
10 accrued during a fiscal year (and on or after the ap-
11 plicable effective date specified in section 102 (a)) by
12 a subcontractor, and all persons under control of or con-
13 trolling or under common control with the subcontractor,
14 under subcontracts described in section 103 (g) (3)
15 is not more than \$25,000, the receipts or accruals from
16 such subcontracts shall not, for such fiscal year, be
17 renegotiated under this title. If the aggregate of such
18 amounts received or accrued during the fiscal year under
19 such subcontracts is more than \$25,000, no determina-
20 tion of excessive profits to be eliminated for such year
21 with respect to such subcontracts shall be in an amount
22 greater than the amount by which such aggregate exceeds
23 \$25,000.

24 (3) COMPUTATION.—In computing the aggregate

1 of the amounts received or accrued during any fiscal year
2 for the purposes of paragraphs (1) and (2) of this
3 subsection, such computation shall be made without
4 elimination of intercompany sales. If the fiscal year is
5 a fractional part of twelve months, the \$100,000 amount
6 and the \$25,000 amount shall be reduced to the same
7 fractional part thereof for the purposes of paragraphs
8 (1) and (2).

9 **SEC. 106. EXEMPTIONS.**

10 (a) **MANDATORY EXEMPTIONS.**—The provisions of this
11 title shall not apply to—

12 (1) any contract by a Department with any Terri-
13 tory, possession, or State, or any agency or political sub-
14 division thereof, or with any foreign government or any
15 agency thereof; or

16 (2) any contract or subcontract for an agricultural
17 commodity in its raw or natural state, or if the com-
18 modity is not customarily sold or has not an established
19 market in its raw or natural state, in the first form or
20 state, beyond the raw or natural state, in which it is
21 customarily sold or in which it has an established mar-
22 ket, but only if such contract or subcontract is with the
23 producer of such agricultural commodity. The term
24 “agricultural commodity” as used herein shall include
25 but shall not be limited to—

1 (A) commodities resulting from the cultivation
2 of the soil such as grains of all kinds, fruits, nuts,
3 vegetables, hay, straw, cotton, tobacco, sugarcane,
4 and sugar beets;

5 (B) natural resins, saps, and gums of trees;

6 (C) animals, such as cattle, hogs, poultry, and
7 sheep, fish and other marine life, and the produce
8 of live animals, such as wool, eggs, milk and
9 cream; or

10 (3) any contract or subcontract for the product
11 of a mine, oil or gas well, or other mineral or natural
12 deposit, which has not been processed, refined, or treated
13 beyond the ordinary treatment processes normally ap-
14 plied by producers in order to obtain the first commer-
15 cially marketable product, but only if such contract or
16 subcontract is with the owner or operator of the mine,
17 well, or deposit from which such product is produced.
18 The term "ordinary treatment processes" means, in the
19 case of the product of a mine, well, or deposit with
20 respect to which an allowance for percentage depletion
21 is provided by section 114 (b) (3) or (4) of the
22 Internal Revenue Code, those processes which are taken
23 into account under such section in computing gross in-
24 come from the property, and in the case of any other
25 product such term means such similar processes as may

1 be prescribed under regulations promulgated by the
2 Board; or

3 (4) any contract or subcontract for timber which
4 has not been processed beyond the form of logs, but only
5 if such contract or subcontract is with the owner of the
6 timber property or with the producer of the logs; or

7 (5) any subcontract directly or indirectly under
8 a contract or subcontract to which this title does not
9 apply by reason of this subsection.

10 (b) COST ALLOWANCE.—In the case of a contractor
11 or subcontractor who produces an agricultural product and
12 processes, refines, or treats such a product beyond the first
13 form or state provided in paragraph (2) of subsection (a),
14 or who produces the product of a mine, oil or gas well,
15 or other mineral or natural deposit, or timber, and
16 processes, refines, or treats such a product beyond the first
17 commercially marketable state provided in paragraph
18 (3) of subsection (a) or, in the case of timber,
19 beyond the form of logs, the Board shall prescribe such
20 regulations as may be necessary to give the contractor
21 or subcontractor a cost allowance substantially equiva-
22 lent to the amount which would have been realized by such
23 contractor or subcontractor if he had sold the product in the
24 form or state provided in paragraph (2) or (3) of subsec-
25 tion (a), or, in the case of timber, in the form of logs.

1 (c) PERMISSIVE EXEMPTIONS.—The Board is au-
2 thorized, in its discretion, to exempt from some or all of the
3 provisions of this title—

4 (1) any contract or subcontract to be performed
5 outside of the territorial limits of the continental United
6 States or in Alaska;

7 (2) any contracts or subcontracts under which,
8 in the opinion of the Board, the profits can be deter-
9 mined with reasonable certainty when the contract
10 price is established, such as certain classes of (A) agree-
11 ments for personal services or for the purchase of real
12 property, perishable goods, or commodities the mini-
13 mum price for the sale of which has been fixed by a
14 public regulatory body, (B) leases and license agree-
15 ments, and (C) agreements where the period of per-
16 formance under such contract or subcontract will not
17 be in excess of thirty days;

18 (3) any contract or subcontract or performance
19 thereunder during a specified period or periods if, in
20 the opinion of the Board, the provisions of the contract
21 are otherwise adequate to prevent excessive profits;

22 (4) any contract or subcontract the renegotia-
23 tion of which would jeopardize secrecy required in the
24 public interest;

25 (5) any subcontract or group of subcontracts

1 not otherwise exempt from the provisions of this sec-
2 tion, if, in the opinion of the Board, it is not admin-
3 istratively feasible in the case of such subcontract or
4 in the case of such group of subcontracts to determine
5 and segregate the profits attributable to such subcon-
6 tract or group of subcontracts from the profits at-
7 tributable to activities not subject to renegotiation.

8 The Board may so exempt contracts and subcontracts both
9 individually and by general classes or types.

10 **SEC. 107. RENEGOTIATION BOARD.**

11 (a) **CREATION OF BOARD.**—There is hereby created, as
12 an independent establishment in the executive branch of
13 the Government, a Renegotiation Board to be composed
14 of five members appointed by the President, by and with
15 the advice and consent of the Senate. Not less than three
16 members of the Board shall be appointed from civilian life.
17 The President shall designate one member to serve as chair-
18 man of the Board. Each member shall receive compensation
19 at the rate of \$12,500 per annum. No member shall
20 engage in any business, vocation, or employment other than
21 that as a member of the Board. The Board shall have a
22 seal which shall be judicially recognized.

23 (b) **PLACES OF MEETINGS AND QUORUM.**—The prin-
24 cipal office of the Board shall be at such place as may be
25 determined from time to time by the Board, but it or any

1 division thereof may meet and exercise its powers at any
2 other place. The Board may establish such number of offices
3 as it deems necessary to expedite the work of the Board.
4 Three members of the Board shall constitute a quorum, and
5 any power, function, or duty of the Board may be exercised
6 or performed by a majority of the members present if the
7 members present constitute at least a quorum.

8 (c) PERSONNEL.—The Board is authorized, subject to
9 the civil service laws and the Classification Act of 1949,
10 to employ and fix the compensation of such officers and em-
11 ployees as it deems necessary to assist it in carrying out its
12 duties under this title. The Board may, with the consent
13 of the head of the agency of the Government concerned,
14 utilize the services of any officers or employees of the United
15 States, and reimburse such agency for the services so utilized.
16 Officers or employees whose services are so utilized shall not
17 receive additional compensation for such services, but shall
18 be allowed and paid necessary travel expenses and a per
19 diem in lieu of subsistence in accordance with the Standard-
20 ized Government Travel Regulations while away from their
21 homes or official station on duties of the Board.

22 (d) DELEGATION OF POWERS.—The Board may dele-
23 gate in whole or in part any function, power, or duty (other
24 than its power to promulgate regulations and rules) to any
25 agency of the Government, including any such agency estab-

1 lished by the Board, and may authorize the successive re-
2 delegation, within limits specified by it, of any such func-
3 tion, power, or duty to any agency of the Government,
4 including any such agency established by the Board.

5 (e) ORGANIZATION AND OPERATION OF BOARD.—The
6 Chairman of the Board may from time to time divide the
7 Board into divisions of one or more members, assign the
8 members of the Board thereto, and in case of a division
9 of more than one member, designate the chief thereof.
10 The Board may also, by regulations or otherwise, determine
11 the character of cases to be conducted initially by the Board
12 through an officer or officers of, or utilized by, the Board,
13 the character of cases to be conducted initially by the various
14 agencies of the Government authorized to exercise powers of
15 the Board pursuant to subsection (d) of this section, the
16 character of cases to be conducted initially by the various
17 divisions of the Board, and the character of cases to be con-
18 ducted initially by the Board itself. The Board may review
19 any determination in any case not initially conducted by it,
20 on its own motion or, in its discretion, at the request of
21 any contractor or subcontractor aggrieved thereby. Unless
22 the Board upon its own motion initiates a review of such
23 determination within ninety days from the date of such
24 determination, or at the request of the contractor or sub-
25 contractor made within ninety days from the date of such
26 determination initiates a review of such determination within

1 ninety days from the date of such request, such determination
2 shall be deemed the determination of the Board. If such
3 determination was made by an order with respect to which
4 notice thereof was given by registered mail pursuant to
5 section 105 (a), the Board shall give notice by registered
6 mail to the contractor or subcontractor of its decision not
7 to review the case. If the Board reviews any determination
8 in any case not initially conducted by it and does not make
9 an agreement with the contractor or subcontractor with
10 respect to the elimination of excessive profits, it shall issue and
11 enter an order under section 105 (a) determining the
12 amount, if any, of excessive profits, and forthwith give notice
13 thereof by registered mail to the contractor or subcontractor.
14 The amount of excessive profits so determined upon review
15 may be less than, equal to, or greater than, that determined
16 by the agency of the Government whose action is so
17 reviewed.

18 (f) DELEGATION OF RENEGOTIATION FUNCTIONS TO
19 BOARD.—The Board is hereby authorized and directed to
20 accept and perform such renegotiation powers, duties, and
21 functions as may be delegated to it under any other law
22 requiring or permitting renegotiation, and the Board is
23 further authorized to redelegate any such power, duty, or
24 function to any agency of the Government and to authorize
25 successive redelegations thereof, within limits specified by
26 the Board. Notwithstanding any other provision of law, the

1 Secretary of Defense is hereby authorized to delegate to the
2 Board, in whole or in part, the powers, functions, and duties
3 conferred upon him by any other renegotiation law.

4 **SEC. 108. REVIEW BY THE TAX COURT.**

5 Any contractor or subcontractor aggrieved by an order
6 of the Board determining the amount of excessive profits
7 received or accrued by such contractor or subcontractor
8 may—

9 (a) if the case was conducted initially by the Board
10 itself—within ninety days (not counting Sunday or a
11 legal holiday in the District of Columbia as the last
12 day) after the mailing under section 105 (a) of the
13 notice of such order, or

14 (b) if the case was not conducted initially by the
15 Board itself—within ninety days (not counting Sunday
16 or a legal holiday in the District of Columbia as the
17 last day) after the mailing under section 107 (e) of
18 the notice of the decision of the Board not to review
19 the case or the notice of the order of the Board determin-
20 ing the amount of excessive profits,

21 file a petition with The Tax Court of the United States
22 for a redetermination thereof. Upon such filing such court
23 shall have exclusive jurisdiction, by order, to finally deter-
24 mine the amount, if any, of such excessive profits received or
25 accrued by the contractor or subcontractor, and such de-

1 termination shall not be reviewed or redetermined by any
2 court or agency. The court may determine as the amount of
3 excessive profits an amount either less than, equal to, or
4 greater than that determined by the Board. A proceeding
5 before the Tax Court to finally determine the amount, if
6 any, of excessive profits shall not be treated as a proceeding
7 to review the determination of the Board, but shall be
8 treated as a proceeding de novo. For the purposes of this
9 section the court shall have the same powers and duties,
10 insofar as applicable in respect of the contractor, the sub-
11 contractor, the Board, and the Secretary, and in respect of
12 the attendance of witnesses and the production of papers,
13 notice of hearings, hearings before divisions, review by the
14 Tax Court of decisions of divisions, stenographic reporting,
15 and reports of proceedings, as such court has under sections
16 1110, 1111, 1113, 1114, 1115 (a), 1116, 1117 (a), 1118,
17 1120, and 1121 of the Internal Revenue Code in the case of
18 a proceeding to redetermine a deficiency. In the case of any
19 witness for the Board, the fees and mileage, and the expenses
20 of taking any deposition shall be paid out of appropriations
21 of the Board available for that purpose, and in the case of
22 any other witnesses shall be paid, subject to rules prescribed
23 by the court, by the party at whose instance the witness
24 appears or the deposition is taken. The filing of a petition
25 under this section shall operate to stay the execution of

1 the order of the Board under subsection (b) of section 105
2 if within five days after the filing of the petition the peti-
3 tioner files with the Tax Court a good and sufficient bond,
4 approved by such court, in such amount as may be fixed by
5 the court. Any amount collected by the United States under
6 an order of the Board in excess of the amount found to be
7 due under a determination of excessive profits by the Tax
8 Court shall be refunded to the contractor or subcontractor
9 with interest thereon at the rate of 6 per centum per an-
10 num from the date of collection by the United States to the
11 date of refund.

12 **SEC. 109. RULES AND REGULATIONS.**

13 The Board may make such rules, regulations, and
14 orders as it deems necessary or appropriate to carry out the
15 provisions of this title.

16 **SEC. 110. COMPLIANCE WITH REGULATIONS, ETC.**

17 No person shall be held liable for damages or
18 penalties for any act or failure to act resulting directly or
19 indirectly from his compliance with a rule, regulation, or
20 order issued pursuant to this title, notwithstanding that any
21 such rule, regulation, or order shall thereafter be declared by
22 judicial or other competent authority to be invalid.

23 **SEC. 111. APPLICATION OF ADMINISTRATIVE PROCEDURE**
24 **ACT.**

25 The functions exercised under this title shall be ex-
26 cluded from the operation of the Administrative Procedure

1 Act (60 Stat. 237) except as to the requirements of section
2 3 thereof.

3 **SEC. 112. APPROPRIATIONS.**

4 There are hereby authorized to be appropriated such
5 sums as may be necessary and appropriate for the carrying
6 out of the provisions and purposes of this title. Funds
7 made available for the purposes of this title may be allocated
8 or transferred for any of the purposes of this title, with the
9 approval of the Bureau of the Budget to any agency of the
10 Government designated to assist in carrying out this title.
11 Funds so allocated or transferred shall remain available for
12 such period as may be specified in the Acts making such
13 funds available.

14 **SEC. 113. PROSECUTION OF CLAIMS AGAINST UNITED**
15 **STATES BY FORMER PERSONNEL.**

16 Nothing in title 18, United States Code, sections 281
17 and 283, or in section 190 of the Revised Statutes (U. S. C.,
18 title 5, sec. 99) shall be deemed to prevent any person by
19 reason of service prior to January 1, 1954, in performance
20 of duties or functions required by this Act, from acting as
21 counsel, agent, or attorney for prosecuting any claim against
22 the United States: *Provided*, That such person shall not pros-
23 ecute any claim against the United States (1) involving any
24 subject matter directly connected with which such person
25 was so employed, or (2) during the period such person is
26 engaged in employment in a department or the Board.

1 **TITLE II—MISCELLANEOUS PROVISIONS**

2 **SEC. 201. FUNCTIONS UNDER WORLD WAR II RENEGOTIA-**
3 **TION ACT.**

4 (a) **ABOLITION OF WAR CONTRACTS PRICE ADJUST-**
5 **MENT BOARD.**—The War Contracts Price Adjustment Board,
6 created by the Renegotiation Act, is hereby abolished.

7 (b) **TRANSFER OF FUNCTIONS IN GENERAL.**—All
8 powers, functions, and duties conferred upon the War Con-
9 tracts Price Adjustment Board by the Renegotiation Act
10 and not otherwise specifically dealt with in this section are
11 transferred to the Renegotiation Board.

12 (c) **AMENDMENT OF THE RENEGOTIATION ACT.**—Sub-
13 section (a) (4) (D) of the Renegotiation Act is amended
14 by inserting at the end thereof the following: “A net rene-
15 gotiation rebate shall not be repaid unless a claim there-
16 for has been filed with the Board on or before the date
17 of its abolition, or unless a claim shall have been
18 filed with the Administrator of General Services (i) on
19 or before June 30, 1951, or (ii) within ninety days
20 after the making of an agreement or the entry of an order
21 under subsection (c) (1) determining the amount of exces-
22 sive profits, whichever is later. A claim shall be deemed to
23 have been filed when received by the Board or the Adminis-
24 trator, whether or not accompanied by a statement of the

1 Commissioner of Internal Revenue showing the amortiza-
2 tion deduction allowed for the renegotiated year upon the re-
3 computation made pursuant to section 124 (d) of the In-
4 ternal Revenue Code."

5 (d) TRANSFER OF CERTAIN FUNCTIONS.—All powers,
6 functions, and duties conferred upon the War Contracts
7 Price Adjustment Board by subsection (a) (4) (D) of
8 the Renegotiation Act, subject to the amendment there-
9 of by subsection (c) of this section, are hereby transferred
10 to the Administrator of General Services.

11 (e) FUNCTIONS AND RECORDS.—Each Secretary of a
12 Department is authorized and directed to eliminate the ex-
13 cessive profits determined under all existing renegotiation
14 agreements or orders by the methods enumerated in subsec-
15 tion (c) (2) of the Renegotiation Act in respect of all re-
16 negotiations conducted by his Department pursuant to dele-
17 gations from the War Contracts Price Adjustment Board.
18 The several Departments shall retain custody of the renegoti-
19 ation case files covering renegotiations thus conducted for
20 such time as the Secretary deems necessary for the purposes
21 of this section, and thereafter they shall be made available
22 to the Renegotiation Board for appropriate disposition. The
23 renegotiation records of the War Contracts Price Adjustment
24 Board shall become records of the Renegotiation Board on
25 the effective date of this section.

1 (f) REFUNDS.—All refunds under subsection (a) (4)
2 (D) of the Renegotiation Act (relating to the recomputa-
3 tion of the amortization deduction), all refunds under the
4 last sentence of subsection (i) (3) of such Act (relating
5 to excess inventories), and all amounts finally adjudged or
6 determined to have been erroneously collected by the United
7 States pursuant to a determination of excessive profits, with
8 interest thereon in the last mentioned case at a rate not to
9 exceed 4 per centum per annum as may be determined by
10 the Administrator of General Services or his duly authorized
11 representative computed to the date of certification to the
12 Treasury Department for payment, shall be certified by the
13 Administrator of General Services or his duly authorized
14 representative to the Treasury Department for payment from
15 such appropriations as may be available therefor: *Provided*,
16 That such refunds shall be based solely on the certificate of
17 the Administrator of General Services or his duly authorized
18 representative.

19 (g) EXISTING POLICIES, PROCEDURES, ETC., TO RE-
20 MAIN IN EFFECT.—All policies, procedures, directives, and
21 delegations of authority prescribed or issued (1) by the War
22 Contracts Price Adjustment Board, or (2) by any Secretary
23 or other duly authorized officer of the Government, under
24 the authority of the Renegotiation Act, in effect upon the
25 effective date of this section and not inconsistent herewith,

1 shall remain in full force and effect unless and until super-
2 seded, or except as they may be amended, under the author-
3 ity of this section or any other appropriate authority. All
4 functions, powers, and responsibilities transferred by this sec-
5 tion shall be accompanied by the authority to issue appropri-
6 ate regulations and procedures, or to modify existing pro-
7 cedures, in respect of such powers, functions, and respon-
8 sibilities.

9 (h) SAVINGS PROVISION.—This section shall not be
10 construed (1) to prohibit disbursements authorized by the
11 War Contracts Price Adjustment Board and certified pursu-
12 ant to its authority prior to the effective date of this sec-
13 tion, (2) to affect the validity or finality of any agreement
14 or order made or issued pursuant to law by the War Con-
15 tracts Price Adjustment Board or pursuant to delegations of
16 authority from it, or (3) to prejudice or to abate any action
17 taken or any right accruing or accrued, or any suit or pro-
18 ceeding had or commenced in any civil cause; but any court
19 having on its docket a case to which the War Contracts
20 Price Adjustment Board is a party, on motion or supple-
21 mental petition filed at any time within twelve months after
22 the effective date of this section, showing a necessity for the
23 survival of such suit, action, or other proceeding to obtain
24 a determination of the questions involved, may allow the
25 same to be maintained by or against the United States.

1 (i) RENEGOTIATION ACT NOT REPEALED.—Except as
2 by this Act specifically amended or modified, all provisions of
3 the Renegotiation Act shall remain in full force and effect.

4 (j) DEFINITIONS.—The terms which are defined in the
5 Renegotiation Act shall, when used in this section, have the
6 same meaning as when used in the Renegotiation Act, except
7 that where a renegotiation function has been transferred by
8 or pursuant to law the terms “Secretary” or “Secretaries”
9 and “Department” or “Departments” shall be understood to
10 refer to the successors in function to those officers or offices
11 specifically named in the Renegotiation Act.

12 (k) EFFECTIVE DATE OF SECTION.—This section shall
13 take effect sixty days after the date of the enactment of this
14 Act.

15 SEC. 202. PERIOD OF LIMITATIONS FOR RENEGOTIATION
16 ACT OF 1948.

17 No proceeding under the Renegotiation Act of 1948
18 to determine the amount of excessive profits for any fiscal
19 year shall be commenced more than one year after the
20 mandatory statement required by the regulations issued
21 pursuant to such Act is filed with respect to such year,
22 or more than six months after the date of the enactment of
23 this title, whichever is the later, and if such proceeding is
24 not so commenced (in the manner provided by the regula-
25 tions prescribed pursuant to such Act), all liabilities of the

1 contractor or subcontractor under such Act for excessive
2 profits received or accrued during such fiscal year shall
3 thereupon be discharged. If an agreement or order deter-
4 mining the amount of excessive profits under such Act is
5 not made within two years following the commencement
6 of the renegotiation proceeding, then upon the expiration
7 of such two years all liabilities of the contractor or sub-
8 contractor for excessive profits with respect to which such
9 proceeding was commenced shall thereupon be discharged,
10 except that (1) such two-year period may be extended
11 by mutual agreement, and (2) if within such two years
12 such an order is duly issued pursuant to such Act, such
13 two-year limitation shall not apply to the review of such
14 order by any renegotiation board duly authorized to under-
15 take such review.

16 **SEC. 203. AMENDMENT OF SECTION 3806 OF THE INTER-**
17 **NAL REVENUE CODE.**

18 Section 3806 (a) (1) of the Internal Revenue Code
19 is hereby amended by striking out subparagraphs (A),
20 (B), and (C) and inserting in lieu thereof the following:

21 “(A) The term ‘renegotiation’ includes any
22 transaction which is a renegotiation within the
23 meaning of the Federal renegotiation act applicable
24 to such transaction, any modification of one or more

1 contracts with the United States or any agency
2 thereof, and any agreement with the United States
3 or any agency thereof in respect of one or more
4 such contracts or subcontracts thereunder.

5 “(B) The term ‘excessive profits’ includes any
6 amount which constitutes excessive profits within
7 the meaning assigned to such term by the applicable
8 Federal renegotiation act, any part of the contract
9 price of a contract with the United States or any
10 agency thereof, any part of the subcontract price
11 of a subcontract under such a contract, and any
12 profits derived from one or more such contracts or
13 subcontracts.

14 “(C) The term ‘subcontract’ includes any pur-
15 chase order or agreement which is a subcontract
16 within the meaning assigned to such term by the
17 applicable Federal renegotiation act.

18 “(D) The term ‘Federal renegotiation act’
19 includes section 403 of the Sixth Supplemental
20 National Defense Appropriation Act (Public 528,
21 77th Cong., 2d Sess.), as amended or supplemented,
22 the Renegotiation Act of 1948, as amended or
23 supplemented, and the Renegotiation Act of 1951,
24 as amended or supplemented.”

1 SEC. 204. SEPARABILITY PROVISION.

2 If any provision of this Act or the application of any
3 provision to any person or circumstance is held invalid,
4 the validity of the remainder of the Act and of the applica-
5 tion of its provisions to other persons and circumstances
6 shall not be affected thereby.

Passed the House of Representatives January 23, 1951.

Attest:

RALPH R. ROBERTS,

Clerk.

82ND CONGRESS
1ST Session

H. R. 1724

AN ACT

To provide for the renegotiation of contracts,
and for other purposes.

JANUARY 25 (legislative day, JANUARY 8), 1951

Read twice and referred to the Committee on Finance

my hope that when this bill is referred to the Post Office and Civil Service Committee they will take up the broad problem as well. I understand that the chairman of the Senate Post Office and Civil Service Committee, Mr. JOHNSTON, has indicated that his committee will make such a study. I want to congratulate Senator JOHNSTON for making this move, which indicates his acute awareness of our personnel needs.

AMENDMENT OF RULE RELATING TO CLOTURE

Mr. IVES (for himself and Mr. LODGE) submitted the following resolution (S. Res. 52), which was referred to the Committee on Rules and Administration:

Resolved, That the second paragraph of subsection 2 of rule XXII of the Standing Rules of the Senate (relating to cloture) is amended by striking out "by two-thirds of the Senators duly chosen and sworn" and inserting in lieu thereof "by the vote of a majority of the authorized membership of the Senate."

ALASKA STATEHOOD—AMENDMENT

Mr. BUTLER of Nebraska submitted an amendment intended to be proposed by him to the bill (S. 50) to provide for the admission of Alaska into the Union, which was referred to the Committee on Interior and Insular Affairs.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles, and referred, as indicated:

H. R. 1. An act to authorize the payment by the Administrator of Veterans' Affairs of a gratuitous indemnity to survivors of members of the Armed Forces who die in active service, and for other purposes;

H. R. 1724. An act to provide for the renegotiation of contracts, and for other purposes;

H. R. 1726. An act to provide for the organization of the Air Force and the Department of the Air Force, and for other purposes; to the Committee on Armed Services; and

H. J. Res. 87. Joint resolution amending section 5012 of the Internal Revenue Code; to the Committee on Finance.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. CONNALLY, from the Committee on Foreign Relations:

Mrs. Anna Eleanor Roosevelt, of New York, to be the representative of the United States of America on the Human Rights Commission of the Economic and Social Council of the United Nations for a term of 3 years, reappointment;

George P. Baker, of Massachusetts, to be the representative of the United States of America on the Transport and Communications Commission of the Economic and Social Council of the United Nations for a term of 3 years, reappointment;

Leroy D. Stinebower, of Michigan, to be the representative of the United States of America on the Economic, Employment, and Development Commission of the Economic and Social Council of the United Nations for a term of 3 years;

Thomas D. Cabot, of Massachusetts, to be Director for International Security Affairs; John D. Erwin, of Tennessee, to be Ambassador Extraordinary and Plenipotentiary to Honduras;

Monnett B. Davis, of Colorado, a Foreign Service officer of the class of career minister, now Ambassador Extraordinary and Plenipotentiary to Panama, to be Ambassador Extraordinary and Plenipotentiary to Israel; Stanton Griffiths, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary to Spain;

Horatio Mooers, of Maine, now a Foreign Service officer of class 3 and a secretary in the diplomatic service, to be also a consul general of the United States of America;

William N. Fraleigh, of New Jersey, now a Foreign Service officer of class 4 and a secretary in the diplomatic service, to be also a consul of the United States of America; Charles H. Whitaker, of Rhode Island, now a Foreign Service officer of class 5 and a secretary in the diplomatic service, to be also a consul of the United States of America;

Henry F. Arnold, of New Jersey, and several other Foreign Service staff officers, to be consuls of the United States; and

Jack C. McDermott, of Texas, and several other Foreign Service Reserve officers to be secretaries in the diplomatic service of the United States.

A FOREIGN POLICY: WHAT'S THE ANSWER?—RADIO DEBATE BETWEEN SENATOR DOUGLAS AND SENATOR DIRKSEN

[Mr. SPARKMAN asked and obtained leave to have printed in the Record a transcript of the debate between Senator Douglas and Senator DIRKSEN on the question "A Foreign Policy: What's the Answer?" broadcast on the American Forum of the Air on January 14, 1951, which appears in the Appendix.]

THE WOLF CREEK PROJECT OF THE CUMBERLAND RIVER BASIN—ADDRESS BY COL. HENRY WALSH

[Mr. CHAPMAN asked and obtained leave to have printed in the Record an address on the Wolf Creek project of the Cumberland River Basin, delivered by Col. Henry Walsh, Corps of Engineers, United States Army, of Nashville, Tenn., which appears in the Appendix.]

SENATOR KEM FILLS A NECESSARY ROLE—EDITORIAL FROM THE NEWS-LEADER OF SPRINGFIELD, MO.

[Mr. CARLSON asked and obtained leave to have printed in the Record an editorial entitled "Senator Kem Fills a Necessary Role," published in the News-Leader, of Springfield, Mo., January 20, 1951, which appears in the Appendix.]

TRIBUTE TO MILLARD F. CALDWELL, JR., BY CROSBY S. NOYES

[Mr. SMATHERS asked and obtained leave to have printed in the Record an article paying tribute to Millard F. Caldwell, Jr., written by Crosby S. Noyes, and published in the Washington Evening Star, January 23, 1951, which appears in the Appendix.]

PENSIONS FOR THE ELDERLY—ARTICLE BY WILLIAM H. McMASTERS

[Mr. LANGER asked and obtained leave to have printed in the Record an article regarding pensions for the elderly, written by William H. McMasters, and published in the

National Welfare Advocate, which appears in the Appendix.]

TAXATION OF MUTUAL INSURANCE COMPANIES—ARTICLE FROM THE NORTH DAKOTA UNION FARMER.

[Mr. LANGER asked and obtained leave to have printed in the Record an article entitled "Mutual Insurance Companies Angered by NTEA Attack," published in the North Dakota Union Farmer January 8, 1951, which appears in the Appendix.]

FACTS ON FOOD PRICES—EDITORIAL BY ALFRED D. STEDMAN

[Mr. HICKENLOOPER asked and obtained leave to have printed in the Record an editorial entitled "Facts on Food Prices," written by Alfred D. Stedman, and published in the St. Paul Sunday Pioneer on January 21, 1951, which appears in the Appendix.]

OWEN LATTIMORE—LETTER FROM EUGENE LYONS

[Mr. MCCARTHY asked and obtained leave to have printed in the Record a letter from Eugene Lyons, regarding the attitude of the Soviet press toward Owen Lattimore, published in the New Leader, which appears in the Appendix.]

THE CHANGING COMPLEXION OF MEDICAL PRACTICE—EXCERPTS FROM ADDRESS BY DR. L. R. SANTE

[Mr. KEM asked and obtained leave to have printed in the Record excerpts from an address on the subject The Changing Complexion of Medical Practice During the Last Half Century, delivered by Dr. L. R. Sante, at the one hundred and sixteenth annual meeting of the St. Louis Medical Society, on January 3, 1951, which appears in the Appendix.]

THE CHRISTIAN HOPE OF THE NEW DAY—SERMON BY DR. EARLE B. JEWELL

[Mr. KEM asked and obtained leave to have printed in the Record a sermon delivered on January 14, 1951, by Dr. Earle B. Jewell, rector of St. Andrew Episcopal Church, Kansas City, Mo., which appears in the Appendix.]

NEWSPAPER POLL ON KOREAN AND RUSSIAN QUESTIONS—ARTICLE BY EDWARD W. SOWERS

[Mr. KEM asked and obtained leave to have printed in the Record an article regarding a poll by the Rolla (Mo.) Daily News regarding foreign and domestic policies, which appears in the Appendix.]

DECLARATION ON MANPOWER BY ASSOCIATION OF AMERICAN COLLEGES

[Mr. O'CONOR asked and obtained leave to have printed in the Record a declaration on manpower by the Association of American Colleges, at their annual meeting in Atlantic City, N. J., January 10, 1951, which will appear hereafter in the Appendix.]

LABOR'S APPROACH TO THE NATIONAL EMERGENCY—ADDRESS BY GEORGE M. HARRISON

[Mr. WILEY asked and obtained leave to have printed in the Record an address on the subject Labor's Approach to the National Emergency, delivered by George M. Harrison, president of the Brotherhood of Railway Clerks, before the Economic Club of New York on January 17, 1951, which appears in the Appendix.]

INFLATION AND THE NATIONAL SURVIVAL—ADDRESS BY HARRY A. BULLIS

[Mr. WILEY asked and obtained leave to have printed in the Record an address on

the subject Inflation and the National Survival, delivered by Harry A. Bullis, chairman, General Mills, Inc., before the Economic Club of New York on January 17, 1951, which appears in the Appendix.]

**WHY NOT TALK PEACE FOR A CHANGE?—
EDITORIAL FROM THE HARTFORD
COURANT**

[Mr. McMAHON asked and obtained leave to have printed in the Record an editorial entitled "Why Not Talk Peace for a Change?" published in the Hartford Courant of January 24, 1951, which appears in the Appendix.]

**DECLARATION ON MANPOWER—LETTER
FROM REV. JOHN J. CAVANAUGH**

[Mr. CAPEHART asked and obtained leave to have printed in the Record a letter from Rev. John J. Cavanaugh, president of Notre Dame University, regarding a declaration on manpower adopted at a meeting of the Association of American Colleges at Atlantic City, N. J., on January 10, 1951, which appears in the Appendix.]

**MILITARY POLICY IN KOREA AND EU-
ROPE—ARTICLE FROM CHICAGO DAILY
TRIBUNE**

[Mr. CAPEHART asked and obtained leave to have printed in the Record an article entitled "Rolla, Mo., Says Quit Korea, but Stay in Europe," published in the Chicago Daily Tribune of January 18, 1951, which appears in the Appendix.]

**PROPOSED WITHDRAWAL FROM KOREA—
ARTICLE FROM THE EVANSVILLE
COURIER**

[Mr. CAPEHART asked and obtained leave to have printed in the Record an article entitled "Henderson Plans 'Evacuate Korea' Meeting Tonight," published in the Evansville Courier, of Evansville, Ind., on January 18, 1951, which appears in the Appendix.]

**COMMISSION ON INTERNAL SECURITY
AND INDIVIDUAL RIGHTS—STATEMENT
BY THE PRESIDENT**

Mr. McFARLAND. Mr. President, I ask unanimous consent to have printed in the body of the Record a press release from the White House and the Executive order establishing the President's Commission on Internal Security and Individual Rights.

The President is to be congratulated upon the selection of Admiral Chester W. Nimitz as Chairman of this new Commission. I am sure he will function in his usual excellent manner.

There being no objection, the release and order were ordered to be printed in the Record, as follows:

STATEMENT BY THE PRESIDENT, JANUARY
23, 1951

I have today established a Commission on Internal Security and Individual Rights. The Commission will be composed of nine members. Fleet Admiral Chester W. Nimitz will serve as Chairman.

The Commission will consider in all its aspects the question of how this Nation can best deal with the problem of protecting its internal security and at the same time maintaining the freedoms of its citizens. It will consider the harm that comes from the wrong kind of action as well as the good that comes from the right kind of action.

The Commission will make a thorough examination of the laws, practices, and procedures concerning the protection of our Nation against treason, espionage, sabotage, and other subversive activities, and of the operation of and any need for changes in such laws, practices, and procedures. The Commission will also consider the methods used

by public or private groups for the purpose of protecting us against such activities. It will consider these matters from the standpoint of protecting both the internal security of our country and the rights of individuals, and will seek the wisest balance that can be struck between security and freedom. The Commission will report its conclusions and recommendations for legislative, administrative, or other action it deems appropriate.

I consider the task of this Commission to be of extraordinary importance. The world is in the midst of a struggle between freedom and tyranny. The United States is one of the leaders of the free world—not just because we are powerful in material things, but because we have preserved and expanded the freedom of our people. We have built our society in the faith and in the practice of freedom—freedom of worship, freedom of speech, freedom of association and political belief.

We in this country have always been ready to protect our freedom—to protect it against external or internal enemies and to protect it against unwarranted restrictions by Government. From time to time in our history we have faced the need to protect our freedom from these different kinds of encroachment. Each of these occasions has presented our Nation with new and often conflicting considerations. To reconcile these considerations, and to find the proper national policy is always difficult, and is especially so at times like the present, when our freedom is severely threatened abroad and at home.

Today we are particularly concerned by the threat to our Government and our national life arising from the activities of the forces of Communist imperialism. In addition to the vigorous action we are taking abroad to meet this threat, we must be sure that our laws and procedures at home are adequate to protect our system of government against unconstitutional attacks and to preserve our national security against treason, espionage, sabotage, and other subversive acts designed to weaken or overthrow our Government. At the same time, we are concerned lest the measures taken to protect us from these dangers infringe the liberties guaranteed by our Constitution and stifle the atmosphere of freedom in which we have so long expressed our thoughts and carried on our daily affairs.

These are problems of momentous importance for our country and its future, and for the future of our leadership in the world. They should be approached in a serious and fair-minded way by all our citizens. We must not let our differences about how to solve these problems degenerate into partisan controversies. We must continue to protect our security within the framework of our historic liberties, without thought of partisan advantage or political gain.

To keep these great problems from falling into the arena of partisanship, I am appointing this Commission of distinguished citizens on a nonpartisan basis. I believe the people of this country will receive from them an authoritative judgment on these problems, based on the facts and formulated in the national interest, with no question of political advantage.

The Commission will undoubtedly wish to focus its primary attention on Federal laws and procedures. But I do not believe the Commission should limit itself to reviewing Government actions. Instead, I hope it will consider afresh, in all its present-day ramifications, the recurrent question of how a free people protect their society from subversive attack without at the same time destroying their own liberties.

This question is, of course, far broader than the activities of the Federal Government. It concerns State and local governments as well, private groups of all kinds, and citizens in their daily work and in their

homes. I hope that the report of this Commission will provide guidelines of sufficiently wide application to be helpful in protecting both internal security and individual rights in every part of our national life.

The field of study for this Commission is very complex and far reaching. Much study will be necessary before a report can be drafted. I am giving instructions that the Commission shall have complete freedom to conduct its study as it sees fit. I am asking the Commission to make such interim reports as it may deem desirable, and I hope the Commission will find it possible to complete its work in a year.

One of the important matters for the Commission to consider is the operation of the Government employee loyalty and security programs. I wish to make it clear, however, that this Commission is not being established as an appeals tribunal for individual cases. The Commission will be expected to report on the effectiveness and fairness of the Government's loyalty and security programs. In doing this, the Commission may wish to inspect individual case files—and it will be authorized to do so to whatever extent it may determine to be necessary.

In connection with loyalty and security procedures, and also in considering the operation of such statutes as the Internal Security Act of 1950, the Commission will necessarily be reviewing information of very high security classifications. I am directing the Commission therefore, to take appropriate measures to safeguard the security of any classified or confidential information it may wish to examine.

I intend to do everything I can to enable this Commission to make a thorough and careful study.

We, in the United States have a special responsibility for leadership in these critical times, when free men the world over are strongly resisting the challenge of the Communist drive for world domination. We must guard our freedom well—guard it from armed assault, guard it from subversive infiltration, guard it from internal suppression and the deadly imposition of conformity. For the kind of freedom we have enjoyed in this country has been the shining goal for millions in other lands—and the results of freedom in this country have been the shattering reply to the false claims of Communist imperialism.

If we are to continue growing in strength here at home—if we are to continue leading the world toward peace with freedom and justice—we must both protect the security of our Nation and safeguard the freedom of our people.

I know the Commission on Internal Security and Individual Rights will undertake its work in full recognition of the immense importance and world-wide significance of its task.

EXECUTIVE ORDER ESTABLISHING THE PRESIDENT'S COMMISSION ON INTERNAL SECURITY AND INDIVIDUAL RIGHTS

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

1. There is hereby established in the Executive Office of the President a commission to be known as the President's Commission on Internal Security and Individual Rights, which shall be composed of a Chairman, a Vice Chairman, and seven other members, all of whom shall be designated by the President.

2. (a) The Commission shall make a thorough study of the problem of providing for the internal security of the United States and at the same time protecting the rights and freedoms of individuals. The Commission shall consider how this problem should be met by Government action and by private action. Among other things, the Commis-

82D CONGRESS }
1st Session }

SENATE

{ REPORT
No. 92

RENEGOTIATION ACT OF 1951

FEBRUARY 14, 1951.—Ordered to be printed, under authority of the order of the Senate of February 12 (legislative day of January 29), 1951

Mr. GEORGE, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 1724]

The Committee on Finance, to whom was referred the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

GENERAL STATEMENT

Your committee held hearings on H. R. 1724, at which representatives of the Defense Department and representatives of business and industry appeared. After studying the bill and hearing the testimony of witnesses, your committee made the following major changes in the bill:

1. The minimum amount subject to renegotiation in any fiscal year of a contractor or subcontractor is increased from \$100,000 to \$500,000.

2. The exemptions contained in the House bill with respect to contracts and subcontracts for agricultural commodities and for the products of mines, oil and gas wells, and mineral or natural deposits have been broadened to conform to the exemptions contained in the renegotiation law in effect during World War II.

3. In the case of contracts and subcontracts with a common carrier for transportation or with a public utility, your committee has provided a new mandatory exemption.

4. Your committee bill also exempts from renegotiation any contract with a charitable, educational or scientific institution, etc., exempt under section 101 (6) of the Internal Revenue Code, provided that the income from such contract or subcontract is not unrelated business income under the income-tax law.

5. The committee bill has also provided for a partial mandatory exemption in the case of subcontracts for durable productive equipment.

6. Your committee bill, like the House bill, provides for a Renegotiation Board to be composed of five members, all to be appointed by and with the advice and consent of the Senate. The House bill required all five members to be appointed by the President. Your committee bill provides for one to be appointed by the President to serve as Chairman, one each to be appointed by the Secretaries of the Army, Navy, and Air Force, respectively, subject to the approval of the Secretary of Defense, and one to be appointed by the Administrator of General Services. Under the House bill the compensation of each member of the Board was fixed at \$12,500. Under your committee bill the compensation of the Chairman is fixed at the rate of \$17,500 and of the other members at the rate of \$15,000 per annum.

7. Under the House bill the President is given the authority to designate additional departments whose contracts shall be subject to renegotiation. Under the House bill, any department exercising functions in connection with the national defense might be designated. Your committee bill limits this power of the President to departments exercising functions having a direct and immediate connection with the national defense. While a literal wording of the bill would require all contracts with the departments specifically named or those designated by the President to be renegotiated, your committee contemplates that the Board by a judicious use of its power to make permissive exemptions of contracts by classes or types will properly limit the area of renegotiation where the contracts are not intimately related to the defense effort.

8. Under the House bill the profit limitation provisions of the Vinson-Trammel Act are made inapplicable to any contract or subcontract if any of the receipts or accruals therefrom are subject to this act. Your committee bill similarly suspends the profit limitation provisions of the Merchant Marine Act of 1936.

9. Under the House bill renegotiation could apply to amounts received or accrued after January 1, 1951, where the performance to which the receipts or accruals relate occurred prior to July 1, 1950. Your committee bill limits the applicability of renegotiation to receipts and accruals attributable to performance after June 30, 1950.

10. Under the House bill losses under renegotiable contracts for 1 year cannot be offset against excessive profits for subsequent years. Your committee bill relieves this situation to the extent of permitting losses incurred on renegotiable business in one fiscal year to be carried over as allowable costs in the renegotiation of the contractor's next fiscal year only.

11. It was not clear from the House bill whether sufficient incentive was provided to the contractor or subcontractor to reduce his costs and increase his productivity by efficiency in the use of facilities, materials, and manpower. Your committee bill makes it mandatory that favorable recognition be given to the efficiency of the contractor or subcontractor, with particular regard to attainment of quality and quantity production, reduction of costs, and economy in the use of facilities, materials, and manpower.

12. Under the House bill interest on unpaid renegotiation indebtedness accrued at the rate of 6 percent per annum. Your committee bill

reduces the rate of interest to be charged in such cases to 4 percent per annum and limits to 3 years the period during which interest shall accrue in certain cases where the contractor has filed a petition with the Tax Court. Interest payable to the contractor on overcollections is likewise reduced from 6 to 4 percent.

13. Your committee bill adds a new provision to make it clear that renegotiable contracts or subcontracts which have been assigned to banking institutions as collateral for loans are not subject to withholding for the renegotiation liability of their assignors.

DISCUSSION OF MAJOR PROVISIONS

1. THE DOLLAR LIMITATION

Under the House bill, no contractor or subcontractor may be renegotiated for any year unless more than \$100,000 subject to the bill has been received or accrued by him, or persons under common control with him. The Renegotiation Act of World War II had a limitation of \$100,000, which was later increased to \$500,000. At the time the recommendation for the \$500,000 limit was made, information available indicated that if the limit were left at \$100,000, the workload of the renegotiation agencies would be approximately five times greater and that the additional recoveries resulting to the Government would be very small. With the reduction in value of the dollar since 1944, this problem is now much more serious. Experience under the World War II law indicated the difficulty in securing men with experience and judgment to exercise renegotiation functions. There is a greater shortage of such men today than in 1944. Furthermore, to make the limitation as low as under the House bill would create a considerable hardship on small business. It is believed that any excessive profits which might arise in cases under the \$500,000 limit would not be great enough to warrant renegotiation because of the excess-profits tax. It is also the opinion of your committee that raising the limit to \$500,000 will enable the renegotiators to concentrate on the larger cases.

Your committee bill continues the \$25,000 limit contained in the House bill in the case of subcontractors whose income is derived from commissions and fees based upon renegotiation contracts and subcontracts.

Your committee bill also continues the "floor" provisions of the House bill so that no determination of excess profits to be eliminated may be in an amount greater than the amount by which the receipts or accruals exceed the "floor" of \$500,000 or \$25,000, as the case may be.

Like the House bill, the committee bill provides that if the fiscal year of a contractor or subcontractor is a fractional part of 12 months, the \$500,000 or \$25,000 limit, as the case may be, shall be reduced to the same fractional part thereof. Your committee bill, however, provides a special rule for a fiscal year beginning in 1950 and ending in 1951. In such a case, the \$500,000 amount, or the \$25,000 amount, is required to be reduced to an amount which bears the same ratio to \$500,000 or \$25,000 as the case may be, as the number of days in such fiscal year after December 31, 1950 bears to 365. However, this requirement for reduction of the limitation for a fiscal year beginning

in 1950 and ending in 1951 will not apply where the contractor or subcontractor has agreed to have renegotiated under this bill amounts received or accrued in such year prior to January 1, 1951.

Your committee bill eliminates the provision in the House bill that in computing the \$500,000 and \$25,000 limitations with respect to companies under common control, such computation shall be made without elimination of intercompany sales.

2. AGRICULTURAL AND RAW MATERIAL EXEMPTIONS

Your committee has adopted exemptions relating to contracts and subcontracts for agricultural commodities and for products of mines, oil and gas wells, and other mineral and natural deposits and timber, which are identical with the exemptions contained in the renegotiation statute in effect during World War II.

Section 106 (a) (2) of the committee bill grants an exemption to any contract or subcontract for an agricultural commodity in its raw or natural state, or, if it is not customarily sold or does not have an established market in such state, in the first form or state in which it is customarily sold or in which it has an established market. The definition of agricultural product is broad and includes not only products resulting from the cultivation of the soil but also natural resins, saps and gums of trees; animals, fish, and the produce of live animals such as wool, eggs, milk, and cream. Unlike the House bill, your committee bill does not limit the exemption to contracts or subcontracts with the producer of the agricultural commodity but applies it to all contracts and subcontracts for an agricultural commodity within the scope of the exemption.

Section 106 (a) (3) exempts from renegotiation any contract or subcontract for the product of a mine, oil or gas well or other mineral or natural deposit, or timber, which has not been processed, refined or treated beyond the first form or state suitable for industrial use. It is intended by this exemption to exempt all products which would have been exempt under the identical exemption contained in the renegotiation statute in effect during World War II. Thus, this exemption applies to contracts or subcontracts for the sale of pig iron, which is the first form or state of iron ore which is suitable for industrial use. This is to be contrasted with the provision in the House bill which makes the exemption inapplicable to iron ore if it has been processed, refined or treated beyond the first commercially marketable state as described in the House bill. Similarly, this exemption is intended to apply, as in the case of the comparable exemption in effect during World War II, to zinc ores which have not been processed, refined, or treated beyond the form or state of zinc ores and concentrates, anodes, bars, oxide, powder and slabs. As was the case under the statute in effect during World War II, certain by-products resulting from processes designed to produce an exempted product are also exempt. Examples of this are by-products resulting from the processing of natural gas, such as natural gasoline, butanes, propanes, and residue gas.

In order to place an integrated producer who acquires any of the products described in section 106 (a) (2) and (3) or produces them initially and processes them up to and beyond the last exempted form or state on a parity with a producer who sells at the last exempted

form or state, the Board is required in section 106 (b) to prescribe such regulations as may be necessary to give such integrated producer a cost allowance substantially equivalent to the amount which would have been realized by such producer if he had sold the product at its last exempted form or state.

Since contracts with the acquirer of a product at its last exempted form or state are entitled to the same exemption as contracts with the producer of such product under your committee bill, there has been added to section 106 (b) a provision, similar to that contained in the renegotiation statute in effect during World War II, whereby, to the extent that the profits realized by a contractor or subcontractor by reason of the increment in value of his excess inventory of the products described in section 106 (a) (2) and (3) in the form or state in which contracts therefor are exempted under such paragraphs are applicable to receipts and accruals subject to the provisions of the act, they shall be excluded from consideration in determining excessive profits. The test as to whether or not any contractor or subcontractor has an excess inventory of such materials turns upon whether or not the contractor or subcontractor has in inventory quantities of such materials in excess of the amount reasonably necessary to fulfill existing contracts or orders. The method of determining the portion of the profits applicable to receipts and accruals subject to this act realized by reason of the increment in value of an excess inventory and the method of excluding such portion of such profits from renegotiation will be set out in regulations prescribed by the Board.

The following example will show how the amendment operates. A has, through the purchase of long cotton, 600,000 pounds of cotton on hand on a particular date, which has a book cost of 30 cents a pound. On this date, A has future orders which will consume only 100,000 pounds of such cotton. A thus has a long position of 500,000 pounds of cotton. The next contract that A takes is for Government goods and requires the use of 500,000 pounds of such cotton. On the day A takes the Government contract, the current market price of such cotton is 35 cents a pound. In such a situation A has placed himself in a position to realize an inventory profit of \$25,000. This inventory profit, if realized, is not a manufacturing profit but is in the nature of an investment or speculative profit which could be realized. It has no relationship to the profits to be derived from the Government contract, and, therefore, represents a profit from an excess inventory, which is excluded from renegotiation under the amendment.

3. PUBLIC UTILITY EXEMPTION

The House bill did not provide for an expressed exemption from renegotiation in the case of contracts with common carriers or public utilities. Your committee has added a specific mandatory exemption in such cases.

The committee amendment exempts any contract or subcontract with a common carrier for transportation or with a public utility for gas, electric energy, water, communications, or transportation, when made in either case at rates not in excess of published rates or charges filed with, fixed, approved, or regulated by a public regulatory body, State, Federal, or local, or at rates not in excess of unregulated rates of such public utility which are substantially as favorable to the users

and consumers as are the regulated rates. In the case of transportation, by common carrier by water, the exemption applies only to such furnishing or sale by the common carrier which is subject to the jurisdiction of the Interstate Commerce Commission under part III of the Interstate Commerce Commission Act, or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933.

It is believed desirable to specifically exempt contracts of this type since the vendor is subject to regulation by a public regulatory body, and where the vendor is not regulated the rates are substantially as favorable to users and consumers as are the regulated rates. This exemption will avoid possible complication between Federal and State or local authority in these fields as well as between different Federal departments or agencies.

4. CHARITABLE AND EDUCATIONAL EXEMPTION

The House bill contains no exemption of contracts or subcontracts entered into with charitable, educational, and scientific institutions exempt from taxation on the income from their related activities under section 101 (6) of the Internal Revenue Code.

Your committee bill adds a mandatory exemption with respect to such contracts. It provides that any contract or subcontract with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code is to be exempt from renegotiation where the income from such contract or subcontract does not constitute unrelated business income within the meaning of section 422 of the Internal Revenue Code. This exemption would particularly apply to contracts or subcontracts entered into with educational institutions to conduct research activities.

5. SUBCONTRACTS FOR DURABLE PRODUCTIVE EQUIPMENT

A new partial mandatory exemption has been added by your committee bill in favor of subcontracts for machinery, tools, or other so-called durable productive equipment which does not become a part of an end product or of an article incorporated therein and which is not acquired by the purchaser for the account of the Government. The exemption is limited to equipment of this description which has an average useful life of more than 5 years. It is provided that there shall be subject to renegotiation only that part of the receipts or accruals from subcontracts for such equipment which bears the same ratio to the total of such receipts or accruals as 5 years bears to the average useful life of such equipment. Average useful life is stated to be as specified in Bulletin F of the Bureau of Internal Revenue or, if not therein specified, then as estimated by the Board.

The cost of long-lived equipment which does not become property of the Government is ordinarily reimbursed to the owner over a period of years in the form of the depreciation charge for the use of the equipment on Government work. Reimbursement is completed, therefore, only when the entire service life of the equipment is exhausted in such work. Where only a fraction of the life is so consumed, reimbursement through ordinary means is also partial. It is therefore considered proper that renegotiation should apply only to that portion of the

profit which corresponds to the portion of the service life of the equipment that is exhausted in the performance of renegotiable contracts and subcontracts.

The method adopted in your committee bill to effectuate this principle is to invoke an arbitrary assumption calculated to work substantial over-all justice and at the same time to provide a workable rule. The assumption made is that the first 5 years of the service life of equipment originally acquired for defense production will be devoted entirely to such work, and that the remainder of the service life will be devoted to ordinary commercial work. Proceeding upon this assumption, the renegotiable portion of the sales of such equipment by suppliers is stated to be the proportion which 5 years is of its normal service life. Thus, for 10-year equipment, one-half of the receipts, or accruals would be subject to renegotiation, for 15-year equipment, one-third; for 20 year equipment, one-quarter; and so forth. To apply this rule, Bulletin F issued by the Bureau of Internal Revenue is designated as the measure of normal service life of durable equipment. Where Bulletin F does not specify such life for particular equipment, the Board is to estimate the same.

As stated above, the exemption does not apply to sales made directly to the Government or for Government account. As used in the bill, the phrase "acquired * * * for the account of the Government" means acquired pursuant to an arrangement by the Government and the purchaser of such equipment, whereby title to such equipment will, or may, at the option of the Government, vest in the Government.

6. RENEGOTIATION BOARD

Your committee bill provides that the primary responsibility for renegotiation of contracts shall be vested in an independent establishment in the executive branch of the Government, to be known as the Renegotiation Board. The organization of the Renegotiation Board provided by your committee bill differs from that provided by the House bill in that only the Chairman of the Board is to be appointed by the President and the other four members are to be appointed one each by the respective Secretaries of the Army, the Navy, and the Air Force, subject to the approval of the Secretary of Defense, and one by the Administrator of General Services. Your committee bill, like the House bill, requires all five members to be appointed by and with the advice and consent of the Senate. Under the House bill all five members of the Board were to be appointed by the President by and with the advice and consent of the Senate. The provision for the appointment of four members by officials of the four indicated agencies recognizes the fact that such agencies initiate substantially all of the contracts subject to renegotiation.

Your committee bill also differs from the House bill in that the compensation for the Chairman is fixed at \$17,500 per annum and the compensation for the other members is fixed at \$15,000 per annum. The House bill provides that each member shall receive compensation at the rate of \$12,500 per annum. Your committee feels that the members of the Board must be men of the highest qualifications, both as to integrity and experienced business judgment, in order to properly discharge their responsibilities. Therefore, the compensation must be

at a rate commensurate with other governmental officials having similar responsibilities.

The House bill also provided that no member of the Board might engage in any other business, vocation, or employment. This provision has been eliminated from your committee bill in order that the selection of Board members shall not be unduly circumscribed. It is intended that Board members shall devote their full time to the performance of their duties as such, and it is believed that the provision for Senate confirmation of Board appointments will afford adequate opportunity to insure that no outside interests of any appointee will interfere with the proper discharge of his responsibilities as a Board member.

7. DESIGNATION OF ADDITIONAL DEPARTMENTS BY THE PRESIDENT

This subject is fully discussed in paragraph 7 of the general statement.

8. SUSPENSION OF PROFIT LIMITATION PROVISIONS OF MERCHANT MARINE ACT

Subsection (d) of section 201 suspends the profit limitation provisions of the act of March 27, 1934 (Vinson-Trammel Act) and of section 505 (b) of the Merchant Marine Act, 1936, with respect to any contract or subcontract if any of the receipts or accruals therefrom are subject to this act. The House bill suspends only the profit limitation provisions of the Vinson-Trammel Act.

9. CONTRACTS SUBJECT TO RENEGOTIATION

It is provided in subsection (b) of section 102 that even though a contractor or subcontractor receives or accrues amounts on or after January 1, 1951, such amounts shall not be subject to the provisions of title I if such receipts or accruals are attributable to performance prior to July 1, 1950.

Subsection (c) corresponds to section 102 (b) of the House bill but represents a departure from the provisions of the House bill. It is provided by subsection (c) that the Renegotiation Act of 1948 shall not be applicable to any contract or subcontract to the extent of the amounts received or accrued by a contractor or subcontractor on or after the 1st day of January 1951 and attributable to performance after June 30, 1950. Thus, with one exception, the Renegotiation Act of 1948 cannot apply to any amounts received or accrued by a contractor or subcontractor on or after January 1, 1951. The exception is that the 1948 act would continue to apply to any amounts received on or after January 1, 1951, if such amounts are attributable to performance prior to July 1, 1950.

Subsection (c) also provides that if a contractor having a fiscal year beginning in 1950 and ending in 1951 has receipts or accruals prior to January 1, 1951, from contracts or subcontracts subject to the Renegotiation Act of 1948 and also has receipts or accruals after December 31, 1950, to which the provisions of title I are applicable, the contractor or subcontractor and the Board may agree that the provisions of title I shall be applicable to all such receipts or accruals and in the event of such an agreement the Renegotiation Act of 1948

shall not apply to any of the receipts or accruals for the fiscal year. This provides a means of avoiding the conduct of two renegotiation proceedings with respect to one fiscal year.

10. ONE YEAR CARRY-OVER OF LOSS

Your committee bill contains a provision permitting the excess of costs paid or incurred with respect to renegotiable contracts and subcontracts in any fiscal year over the amount received or accrued in such fiscal year to be carried over and applied as an item of cost in the next succeeding fiscal year, subject to regulations of the Board.

It is deemed desirable to allow such losses to be reflected in the costs for the succeeding year, particularly because such losses are frequently incurred at the beginning of production under such contracts as a result of tooling-up, starting-load, and other nonrecurrent charges. This is particularly true with respect to new items not previously manufactured by the contractor or subcontractor. It is not believed that any major administrative difficulty will result from this amendment.

11. RECOGNITION OF EFFICIENCY

Section 103 (e), which defines excessive profits, states the factors which are required to be taken into consideration in every case in determining the existence and amount of excessive profits. Among these factors, in the House bill as in the renegotiation law in effect during World War II, is "efficiency of contractor or subcontractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower."

Your committee believes that this statement of the efficiency factor fails to require that favorable consideration be given thereto. It is considered that a provision requiring favorable recognition of this factor will promote efficient operations by furnishing a strong practical incentive therefor. Accordingly, instead of requiring merely that efficiency be "taken into consideration" in determining excessive profits, it is now provided that "favorable recognition must be given" to this factor in making such determinations. The remaining factors set forth in the House bill remain unchanged.

12. INTEREST

The House bill provides that interest shall accrue on unpaid renegotiation indebtedness at the rate of 6 percent per annum. Your committee bill provides that such interest shall accrue at the rate of 4 percent per annum.

In addition your committee has modified the interest provisions of the House bill in several other respects. It has provided that no interest shall accrue after 3 years from the date of filing a petition with the Tax Court pursuant to section 108 of the bill in any case in which there has not been a final determination by the Tax Court with respect to such petition within such 3-year period.

Your committee bill also provides that, in the event that the Tax Court determines excessive profits in a lesser amount than the amount determined by the Board, no interest shall accrue on the lesser

amount determined by the Tax Court, where prior to the filing of the petition with the Tax Court, the contractor tendered in payment an amount equal to or greater than the amount determined by the Tax Court. Even though the Board has already issued an order, it would of course have the right to accept such a tender made prior to the filing of a petition with the Tax Court.

In addition to the foregoing provisions with respect to the accrual of interest, your committee bill provides that interest shall accrue from the thirtieth day after the date of the order of the Board or from the date fixed for repayment by agreement of the parties instead of, as provided in the House bill, from the date fixed for repayment by order of the Board or by agreement of the parties.

Finally, your committee bill provides that in the case of an over-collection of excess profits, any amounts refunded to the contractor or subcontractor shall be refunded with interest thereon at the rate of 4 percent per annum instead of 6 percent per annum.

13. ASSIGNMENT OF CLAIMS

Your committee has added a new provision to protect banking institutions against the issuance of withholding orders as a means of collecting excessive profits of contractors or subcontractors who have assigned their contracts or subcontracts to such institutions as collateral for loans. It is considered that this protection will facilitate the execution of the national defense program by enabling banks, trust companies, and other financing institutions to advance funds needed by contractors and subcontractors without incurring the liability that money due or to become due under the assigned contract or subcontract may be withheld for the collection of the renegotiation liabilities of their assignors.

DISCUSSION OF MINOR CHANGES MADE BY THE SENATE FINANCE COMMITTEE BILL

A. RECONSTRUCTION FINANCE CORPORATION INCLUDED IN THE DEFINITION OF DEPARTMENTS

Under the House bill the Reconstruction Finance Corporation was not included in the definition of departments whose contracts, and related subcontracts, are subject to renegotiation. Its contracts and subcontracts were subject to renegotiation under the World War II statute. The Reconstruction Finance Corporation has requested through its Chairman that it be included in the 1951 statute as a named Department for the reason that its synthetic rubber, tin, and abacá operations are within the area of contracts for defense materials which are properly subject to renegotiation. Your committee, therefore, has included this agency as a Department whose contracts, and related subcontracts, will be covered.

B. PARTNERSHIP FISCAL YEAR

In this subsection, the definition of the term "fiscal year" has been modified to make it clear that the Board shall not have the right to determine the fiscal year of a partnership in all cases, but only in those

cases where a readjustment of partnership interests occurs. In other words, where a partnership completes an entire fiscal year without any change of membership or other readjustment of interests, its fiscal year is, as in the case of any other contractor or subcontractor, its taxable year under chapter 1 of the Internal Revenue Code. It is only where the composition of a partnership changes before the completion of a full fiscal year by reason of the death, withdrawal, or addition of a partner, or other cause, that the Board is empowered to determine, for purposes of renegotiation, the fiscal year of the partnership or partnerships involved. Difficulties encountered in the administration of the renegotiation law in effect during World War II would thus be avoided.

C. MANDATORY CONSOLIDATION OF AFFILIATED GROUPS

Under the House bill, by agreement with any contractor or subcontractor, and pursuant to regulations promulgated by it, the Board may in its discretion conduct renegotiations on a consolidated basis in order properly to reflect excessive profits of two or more related contractors or subcontractors. The Finance Committee has added an amendment which requires the Board to conduct renegotiation on a consolidated basis with a parent and its subsidiary corporations which constitute an affiliated group for Federal income-tax purposes.

The Board is required to make this consolidation only where the corporations involved request such consolidation and consent to such regulations as the Board shall prescribe with respect to the determination and elimination of excessive profits of such group.

D. NET WORTH

Under your committee bill the Board, in determining excessive profits, is required to consider the factor of net worth, with particular regard to the amount and source of public and private capital employed. Under the House bill the Board was required under this factor to consider only the reasonableness of return on net worth. Your committee believes that the House bill is too restrictive, since the reasonableness of return on net worth might not in many cases be an adequate measure of fair profits.

E. SUBCONTRACTS

Your committee bill restores the provision of the World War II law specifically excluding from the term "subcontract" any purchase order or agreement to furnish office supplies.

F. STAY OF COLLECTION

Under the House bill the filing of a petition with the Tax Court operates as a stay of the execution of an order of the Board if, within 5 days after the filing of the petition, the petitioner files with the Tax Court a good and sufficient bond, approved by such court, in such amount as may be fixed by the court. Your committee extends this 5-day period to 10 days in order that the petitioner may have adequate time to secure a bond.

G. ACCOUNTING METHODS

Your committee made several technical changes in section 103 (j) of the House bill setting forth the standards for allowance of costs and expenses for renegotiation purposes. The word "books" is changed to "records" because books may be only records of cost allocations, etc., for various management or control purposes. The last sentence of this subsection appears redundant and contradictory and is, therefore, eliminated.

H. EMPLOYMENT OF BOARD PERSONNEL

Under your committee bill the Board may employ personnel without regard to the civil-service laws and regulations. This amendment is deemed necessary in order that the Board may secure qualified and experienced personnel. The House bill required such employment to be subject to the civil-service laws and regulations. Like the House bill, the Finance Committee bill requires the compensation of such personnel to be subject to the pay limitations of the Classification Act of 1949.

1. TREATMENT OF RECOVERIES

Your committee bill provides that all money recaptured shall be covered into the Treasury as miscellaneous receipts. The House bill provided that all money recovered in respect of amounts paid to the contractor from corporate or other revolving funds should be restored to such funds. Your committee believes that all moneys recaptured by renegotiation should be covered into the Treasury.

J. PROSECUTION OF CLAIMS AGAINST THE UNITED STATES BY FORMER PERSONNEL

The House bill provides that certain specified provisions of law shall not prevent any person, by reason of service prior to January 1, 1954, in performance of duties required by the act, from acting as counsel, agent, or attorney for prosecuting claims against the United States after such person is no longer employed in a department or the Board. Your committee bill extends this provision to any person employed in a named or designated department or the Board during the period (or a part thereof) beginning July 1, 1950, and ending December 31, 1953. A similar provision was included in the World War II statute. This provision is necessary in order to secure experienced professional personnel in the performance of duties connected with the defense effort.

SECTION-BY-SECTION ANALYSIS OF THE BILL

TITLE I—RENEGOTIATION OF CONTRACTS

SECTION 101. DECLARATION OF POLICY

This section takes cognizance of the extensive funds that have been provided for the execution of the national defense program, and declares it to be the considered policy of the Congress, in the interests of the national defense and the general welfare of the Nation, that

excessive profits from contracts made with the United States, and from related subcontracts, be eliminated as provided in the bill.

SECTION 102. COVERAGE OF THE ACT

The provisions of title I are made applicable to all contracts with the departments specifically named in the bill, and related subcontracts, to the extent the amounts received or accrued by a contractor on or after January 1, 1951, irrespective of whether such contracts were made on, before, or after January 1, 1951, provided such receipts and accruals are not attributable to performance under such contracts or subcontracts prior to July 1, 1950.

The provisions of title I are also made applicable to all contracts with the departments designated by the President pursuant to authority granted in the bill, and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of the first month beginning after the date of such designation. Here again the provisions of this title shall apply regardless of the date of the affected contracts or subcontracts so long as the amounts received or accrued after the first day of the first month following the date of designation are not attributable to performance under such contracts or subcontracts prior to July 1, 1950.

The provisions of this title are made inapplicable to receipts or accruals attributable to performance, under contracts or subcontracts, after December 31, 1953. Amounts received or accrued after December 31, 1953, will be subject to the title only if such receipts or accruals are attributable to performance prior to that date, and renegotiation shall not apply to amounts received or accrued on or prior to December 31, 1953, if such receipts or accruals are attributable to performance subsequent to that date.

It is provided in subsection (c) that the Renegotiation Act of 1948 shall not be applicable to any contract or subcontract to the extent of the amounts received or accrued by a contractor or subcontractor on or after January 1, 1951, and attributable to performance after June 30, 1950.

Subsection (c) also provides that, if a contractor having a fiscal year beginning in 1950 and ending in 1951 has receipts or accruals prior to January 1, 1951, from contracts or subcontracts subject to the Renegotiation Act of 1948 and also has receipts or accruals after December 31, 1950, to which the provisions of title I are applicable, the contractor or subcontractor and the Board may agree that the provisions of title I shall be applicable to all such receipts or accruals and in the event of such an agreement the Renegotiation Act of 1948 shall not apply to any of the receipts or accruals for the fiscal year.

It is provided in subsection (d) that the profit-limitation provisions of the act of March 27, 1934 (Vinson-Trammell Act) and section 505 (b) of the Merchant Marine Act, 1936, shall not apply to any contract or subcontract if any of the receipts or accruals therefrom are subject to this title.

SECTION 103. DEFINITIONS

For the purposes of this title, the term "Department" is defined to mean the Departments of Defense, Army, Navy, Air Force, and

Commerce, the General Services Administration, the Atomic Energy Commission, the Reconstruction Finance Corporation, and such other agencies of the Government exercising functions having a direct and immediate connection with the national defense as the President shall designate.

The definition of "excessive profits" contained in the bill states that, in determining excessive profits, favorable recognition must be given to the efficiency of the contractor or subcontractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower. This definition also sets forth certain factors to be taken into consideration in connection with determining excessive profits. These factors are: Reasonableness of costs and profits, with particular regard to volume of production, normal earnings, and comparison of war and peacetime products; the net worth, with particular regard to the amount and source of public and private capital employed; extent of risk assumed, including the risk incident to reasonable pricing policies; nature and extent of contribution to the defense effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance; character of business, including source and nature of materials, complexity of manufacturing technique, character and extent of subcontracting, and rate of turn-over; and such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted.

"Profits derived from contracts and subcontracts" subject to this title are defined to mean the excess of the amount received or accrued thereunder over the costs paid or incurred with respect thereto and determined to be allocable thereto. All items estimated to be allowable as deductions and exclusions under chapter 1 of the Internal Revenue Code (excluding taxes measured by income) are, to the extent allocable to such contracts and subcontracts, allowed as items of cost, but no amount is allowed as an item of cost by reason of the application of a carry-back. There is allowed as an item of cost a carry-over of a loss on renegotiable business in the preceding year. Such costs generally are to be determined in accordance with the method of accounting regularly employed by the contractor or subcontractor in keeping its records. Federal income taxes are not allowable as items of cost. However, after the excessive profits have been determined, credit is allowed for any Federal income and excess-profits taxes paid with respect thereto.

In addition to the foregoing, this section contains definitions of the following terms: "Secretary," "Board," "subcontract," "fiscal year," "renegotiate," "renegotiation," "received or accrued," "paid or incurred," "person," "materials," and "agency of the Government."

SECTION 104. RENEGOTIATION CLAUSE IN CONTRACTS

This section requires the Secretary of each department to whose contracts the provisions of this title are applicable to insert in each contract a provision whereby the contractor agrees to the elimination of excessive profits through renegotiation, and to certain procedures relating to the repayment of such excessive profits, and agrees to insert

a similar provision in each subcontract entered into by such contractor. The section provides specifically that the provisions of this title will apply to a contract or subcontract within the purview of this title, whether or not such contract or subcontract contains a renegotiation clause.

SECTION 105. RENEGOTIATION PROCEEDINGS

Renegotiation proceedings are commenced by the mailing of notice to that effect, by registered mail, to the contractor or subcontractor. The Board then endeavors to make an agreement with the contractor or subcontractor with respect to the elimination of excessive profits, if any. If no agreement is concluded, the Board issues an order determining the amount, if any, of such excessive profits, giving notice thereof by registered mail to the contractor or subcontractor. Unless a timely petition is filed with the Tax Court of the United States, such order is final and conclusive and not subject to review or redetermination by any court or other agency.

Provision is made that renegotiation shall be conducted with respect to the aggregate of the amounts received or accrued by a contractor or subcontractor under subject contracts or subcontracts during his fiscal year or such other period as may be fixed by mutual agreement, and not separately with respect to amounts received or accrued under separate contracts or subcontracts. However, at the request of the contractor or subcontractor, the Board may renegotiate amounts received or accrued under any one or more separate contracts or subcontracts. The Board is also authorized in its discretion, by agreement with a contractor or subcontractor, to conduct renegotiation on a consolidated basis in order properly to reflect excessive profits of two or more related contractors or subcontractors. The Board must conduct renegotiation on a consolidated basis with a parent and its subsidiary corporations which constitute an affiliated group under the Internal Revenue Code if all of the corporations request such consolidation and consent to the regulations prescribed by the Board. In any case where a determination of excessive profits is made by order, the Board is required, at the request of the contractor or subcontractor, to furnish a statement of the amount of such determination, of the facts used as a basis therefor, and of its reasons for such determination; but such statement may not be used in the Tax Court of the United States as proof of the facts or conclusions stated therein.

The amount of excessive profits having been determined, whether by agreement or order, the Board is required in subsection (b) to authorize and direct the Secretaries or any one of them to eliminate such excessive profits by reducing the amounts otherwise payable to the contractor; by withholding from amounts otherwise due to the contractor; by directing any person having a contract with any agency of the Government, or any subcontractor thereunder, to withhold for the account of the United States from any amounts otherwise due from such person or subcontractor to the contractor or subcontractor having excessive profits to be eliminated; by recovery from the contractor or subcontractor or from any person or subcontractor directed to withhold as above stated, through payment, repayment, credit, or suit; or by any combination of these methods deemed desirable. Interest at the rate of 4 percent is payable on unpaid excessive profits from the thirtieth day after the date of the order of the Board or from the date fixed for repayment by agreement.

Actions in the appropriate courts of the United States may be brought to recover excessive profits determined and not withheld or otherwise eliminated.

The surety under a contract or subcontract is not liable for the repayment of any excessive profits thereon.

Subsection (b) (5) provides that nothing in this subsection shall be construed to authorize any agency of the Government, except as provided in the Assignment of Claims Act of 1940, as now or hereafter amended, to withhold from an assignee any moneys due or to become due under any contract with a department where such moneys have been assigned pursuant to such act, or to authorize any agency of the Government to direct the withholding pursuant to subsection (b) (1) (c) of this section from an assignee bank (as defined in section 104 (a) of the Internal Revenue Code) or from an assignee Federal lending agency of any moneys due or to become due under any subcontract where such moneys have been assigned to such an assignee as collateral for a loan.

All persons are indemnified by the Government against claims on amounts withheld and paid to the United States. All moneys recovered by way of repayment or suit are to be covered into the Treasury as miscellaneous receipts.

Credit is to be allowed the contractor or subcontractor for Federal income and excess-profits taxes as provided in section 3806 of the Internal Revenue Code.

Subsection (c) prohibits the commencement of any proceeding to determine the amount of excessive profits for any fiscal year more than 1 year after the financial statement required from the contractor or subcontractor for such year is filed with the Board, and requires the completion of said proceeding, by agreement or order, within 2 years after commencement. If the proceeding is not commenced and completed within said respective periods, all liabilities of the contractor or subcontractor for excessive profits received or accrued during such fiscal year are thereupon discharged, except that such 2-year period may be extended by mutual agreement and such 2-year limitation does not apply to review by the Board of an order made within such 2 years pursuant to any delegation of authority from the Board.

The Board is given authority in subsection (d) to make final or other agreements with a contractor or subcontractor for the elimination of excessive profits and for the discharge of any liability for excessive profits under title I. Any such agreement is conclusive according to its terms and, in the absence of fraud, malfeasance, or a willful misrepresentation of a material fact, shall not be reopened or modified by the Government and shall not be modified or set aside in any suit, action, or proceeding. The Board may, however, modify any agreement or order for the purpose of extending the time for payment of sums due thereunder.

Subsection (e) requires every person holding contracts or subcontracts subject to the provisions of title I to file with the Board, on or before the first day of the fourth calendar month following the close of his fiscal year, in such form and detail as the Board may by regulations prescribe, a financial statement setting forth such information as the Board may by regulations prescribe. Any additional information, records, or data specified by the Board are also required to be filed by every such person at such time or times and in such form

and detail as the Board may by regulations prescribe. The willful failure or refusal to furnish any such statement or other material, or the filing of any such statement or other material known to be false or misleading in any material respect, is punishable, upon conviction thereof, by a fine of not more than \$10,000 or imprisonment for not more than 1 year, or both.

Subsection (e) also confers upon the Board the right to audit the books or records of any contractor or subcontractor subject to title I. For this purpose, in the interest of economy and to avoid duplicate inspections and audits, it is provided that the services of the Bureau of Internal Revenue shall, upon request of the Board and the approval of the Secretary of the Treasury, be made available to the extent determined by the Secretary of the Treasury.

In the case of subcontracts described in section 103 (g) (3), if the aggregate of amounts subject to the provisions of title I received or accrued from such subcontracts during a fiscal year by any subcontractor, and all persons under control of or controlling or under common control with him, is not more than \$25,000, subsection (f) provides that such receipts or accruals shall not be renegotiated under this title. If the aggregate of amounts subject to the provisions of title I received or accrued from all other contracts and subcontracts during a fiscal year by any contractor or subcontractor, and all persons under control of or controlling or under common control with such contractor or subcontractor, is not more than \$500,000, the bill provides that such receipts or accruals shall not be renegotiated under this title. In either case, no determination of excessive profits to be eliminated for such year may be in an amount greater than the amount by which such aggregate exceeds \$25,000 or \$500,000, as the case may be.

Provision is made that, if the fiscal year of a contractor or subcontractor is a fractional part of 12 months, the \$500,000 amount and the \$25,000 amount shall be reduced by the same fractional part thereof for the purposes of subsection (f). Provision is made for the proration of the \$500,000 amount and the \$25,000 amount in the case of a fiscal year beginning in 1950 and ending in 1951 unless the contractor and the Board make an agreement pursuant to section 102 (c).

SECTION 106. EXEMPTIONS

This section exempts from renegotiation—

1. Contracts by a department with any Territory, possession, or State, or any agency or political subdivision thereof, or with any foreign government or any agency thereof.

2. Contracts and subcontracts for an agricultural commodity in its raw or natural state or, in the case of a commodity not customarily sold or not having an established market in its raw or natural state, in the first form or state beyond the raw or natural state in which it has an established market.

The definition of an agricultural product is broad and includes not only products resulting from the cultivation of the soil but also includes natural resins, saps, and gums of trees; animals, fish, and the produce of live animals, such as wool, eggs, milk, and cream.

3. Contracts and subcontracts for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, which has

not been processed, refined, or treated beyond the first form or state suitable for industrial use.

4. Contracts and subcontracts with common carriers for transportation or with public utilities for gas, electric energy, water, communications, or transportation, when made in either case at rates not in excess of published rates or charges filed with, fixed, approved, or regulated by public regulatory body, either State, Federal, or local. This exemption is limited in the case of the furnishing or sale of transportation by common carrier by water to those which are subject to the jurisdiction of the Interstate Commerce Commission under part III of the Interstate Commerce Act or are subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933.

5. Contracts and subcontracts with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code, provided that the income does not constitute "unrelated business income" within the meaning of section 422 of the Internal Revenue Code.

6. Any subcontract directly or indirectly under a contract or subcontract of the kind described in 1, 2, 3, 4, and 5, above.

7. A partial exemption is provided for durable productive equipment. It is provided that only that part of the receipts or accruals from subcontracts for durable productive equipment which bears the same ratio to the total receipts or accruals therefrom as 5 years bears to the average useful life of such equipment shall be subject to renegotiation. "Durable productive equipment" is defined to mean machinery, tools, or other equipment which does not become a part of an end product or of an article incorporated therein and which has average useful life of more than 5 years. This partial exemption does not apply to the sale of such equipment to the Government by prime contract, nor does it apply to subcontracts where the purchaser of such durable productive equipment has acquired it for the account of the Government.

To insure the equitable treatment of contractors or subcontractors who produce or acquire minerals, oil or gas, or timber, and who process, refine, or treat such products beyond the first form or state suitable for industrial use, or who produce or acquire agricultural products and process, refine, or treat them beyond the first form or state in which they are customarily sold or in which they have an established market, the Board is required to prescribe such regulations as may be necessary to give the contractor or subcontractor a cost allowance for products produced or acquired by him substantially equivalent to the amount which would have been realized by him if he had sold such products in their first form or state.

There is excluded from renegotiation that portion of a contractor or subcontractor's profits which are attributable to the increment in value of such contractor or subcontractor's excess inventory. Excess inventory means inventory of products described in 2 and 3, above, acquired by the contractor or subcontractor in their exempt state which is in excess of the inventory reasonably necessary to fulfill the contractor or subcontractor's existing contracts or orders.

This section also authorizes the Board, in its discretion, to exempt from renegotiation contracts or subcontracts which fall within certain specified categories, either individually or by general classes or types. These categories with one exception were contained in the Renegotia-

tion Act in effect during World War II. The category added by this bill is as follows:

Any contract or subcontract the renegotiation of which would jeopardize secrecy required in the public interest.

In addition to the foregoing the Board would have the authority under this section to exempt from renegotiation, in its discretion, such contracts as the following: Contracts to be performed in a foreign country; contracts and subcontracts under which, in the opinion of the Board, the profits can be determined with reasonable certainty when the contract price is established; contracts the provisions of which are otherwise adequate to prevent excessive profits; and contracts with respect to which it is not administratively feasible to determine and segregate the renegotiable profits from the profits attributable to activities not subject to renegotiation.

SECTION 107. RENEGOTIATION BOARD

Section 107 of the bill contains provisions relating to the creation, organization, and operation of the Renegotiation Board.

The Renegotiation Board is created under subsection (a) as an independent establishment in the executive branch of the Government and is to be composed of five members to be appointed by and with the advice and consent of the Senate. One member, who shall be the Chairman, shall be appointed by the President; one member each shall be appointed by the Secretaries of the Army, the Navy, and the Air Force, respectively, subject to the approval of the Secretary of Defense; and one member shall be appointed by the Administrator of General Services. The Chairman is to receive compensation at the rate of \$17,500 per annum. The other members shall receive compensation at the rate of \$15,000 per annum. The Board is to have a seal which shall be judicially noticed.

Subsection (b) provides that three members of the Board shall constitute a quorum.

Subsections (b) and (c) provide authority for the Board to establish offices, employ personnel, and utilize services of officers and employees of other agencies of the Government.

Subsection (d) authorizes the Board to delegate in whole or in part any function, power, or duty other than its power to promulgate regulations and rules. The delegation power is limited in that no function, power, or duty shall be delegated or redelegated to any person engaged on behalf of any department in the making of contracts for procurement of supplies or services or engaged in the supervision of such activity. Furthermore, any delegatee must be directly responsible to the Board or to the person making such delegation or redelegation. The Board is to make a determination that delegants and redelegants have been made subject to such limitations.

Subsection (e) authorizes the Chairman of the Board to divide the Board into divisions, assign members thereto, and (where a division has more than one member) designate the chief thereof. In addition the Board is authorized, by regulation or otherwise, to determine the character of cases to be conducted initially (1) by the Board through an officer or officers of, or utilized by, the Board; (2) by agencies of the Government to which the Board has delegated power to conduct cases; (3) by divisions of the Board; and (4) by the Board itself. The

Board is authorized to review any determination in any case not initially conducted by it either on its own motion or (in its discretion) at the request of any contractor or subcontractor aggrieved thereby. Such determination becomes the determination of the Board unless (1) the Board initiates on its own motion a review within 90 days from the date of the determination or (2), at the request of the contractor or subcontractor made within 90 days from the date of the determination, the Board initiates a review within 90 days from the date of the request. If such determination was made by an order with respect to which notice was given by registered mail (as required by sec. 105 (a)) the Board is required to give notice by registered mail to the contractor or subcontractor of its decision not to review the case. If the Board reviews the determination, it is required to issue and enter an order under section 105 (a) determining the amount (if any) of excessive profits and forthwith give notice thereof by registered mail to the contractor or subcontractor. The amount of the excessive profits determined upon review may be less than, equal to, or greater than the amount determined by the officer or officers, division of the Board, or other agency of the Government whose action is reviewed.

Subsection (f) of section 107 requires the Board to accept and perform such renegotiation powers, duties, and functions as may be delegated to it under any other law requiring or permitting renegotiation and permits the Board to redelegate, within limits specified by it, the powers, duties, or functions delegated to it. This subsection also authorizes the Secretary of Defense to delegate to the Board, in whole or in part, the powers, functions, and duties conferred upon him by any other renegotiation law.

SECTION 108. REVIEW BY THE TAX COURT

This section provides that any contractor or subcontractor aggrieved by an order of the Board determining the amount of excessive profits received or accrued by him may, within the time limitations prescribed in the section, file a petition with the Tax Court for a redetermination thereof; that the court shall then have exclusive jurisdiction, by order, to finally determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor; and that such determination shall not be reviewed or redetermined by any court or agency. The court may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the Board. The proceeding before the Tax Court is to be a proceeding *de novo*.

In addition to certain provisions relating to administrative matters connected with the proceedings in the Tax Court, the section also provides that the filing of a petition in the Tax Court shall operate to stay the execution of the order of the Board if a good and sufficient bond is filed with the approval of the Tax Court. Where the United States has collected amounts, under an order of the Board, greater than the amount determined by the court, the excess shall be refunded to the contractor with interest thereon at the rate of 4 percent per annum.

SECTION 109. RULES AND REGULATIONS

The Board is granted authority to make such rules, regulations, and orders as it deems necessary or appropriate to carry out this title.

SECTION 110. COMPLIANCE WITH REGULATIONS, ETC.

This section provides that no person shall be held liable for damages or penalties for any act resulting from his compliance with a rule, regulation, or order of the Board, even though the order is thereafter declared invalid.

SECTION 111. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT

This section provides that the functions exercised under this title shall be excluded from the operation of the Administrative Procedure Act, except as to the requirements of section 3 thereof. Section 3 of that act relates to publishing rules and regulations and to making information available to the public.

SECTION 112. APPROPRIATIONS

Section 112 authorizes the appropriation of funds sufficient to carry out this title. It also provides that funds made available to carry out the title may, with the approval of the Bureau of the Budget, be transferred among the agencies carrying out the title and that the funds so transferred shall remain available for such period as may be provided in the acts making the funds available.

SECTION 113. PROSECUTION OF CLAIMS AGAINST THE UNITED STATES
BY FORMER PERSONNEL

This section provides that certain specified provisions of law shall not prevent any person, by reason of service in a department or the Board during the period (or part thereof) beginning July 1, 1950, and ending December 31, 1953, from acting as counsel, agent, or attorney for prosecuting any claim against the United States after such person is no longer employed in an agency or the Board, if the subject matter of the claim does not involve any subject matter directly connected with which such person was employed.

TITLE II—MISCELLANEOUS PROVISIONS

SECTION 201. FUNCTIONS UNDER WORLD WAR II RENEGOTIATION ACT

Subsection (a) abolishes the War Contracts Price Adjustment Board created by the Renegotiation Act in effect in World War II.

Subsection (b) transfers to the Renegotiation Board created by this bill all of the powers, functions, and duties of the War Contracts Price Adjustment Board not specifically transferred to another agency of the Government by this title.

Subsection (c) amends the Renegotiation Act in effect during World War II by adding two sentences to the end of section (a) (4) (D) of that act. The first such sentence provides a deadline for the filing of renegotiation rebate claims arising as a result of the recomputation

of the amortization deduction allowed in World War II. The second such sentence provides that a claim shall be deemed to have been filed when received by the War Contracts Price Adjustment Board or the Administrator of General Services even though it is not accompanied by a statement of the Commissioner of Internal Revenue showing the amortization deduction allowed for the renegotiated year.

Subsection (d) transfers to the Administrator of General Services all of the powers, functions, and duties of the War Contracts Price Adjustment Board relating to the payment of renegotiation rebates.

Subsection (e) requires each Secretary of a department named in the Renegotiation Act in effect during World War II to complete the elimination of excessive profits under all existing renegotiation agreements and orders resulting from renegotiations conducted initially by his department, and to complete any uncompleted administration of such agreements and orders. The subsection provides that such records as may be required for this purpose shall be retained by the departments for so long as they may be needed, but that all records of the War Contracts Price Adjustment Board, whether in the custody of the Board or in the custody of the several departments, shall become the records of the Renegotiation Board.

Subsection (f) transfers to the Administrator of General Services from the War Contracts Price Adjustment Board the responsibility for certifying for payment refunds under the Renegotiation Act in effect during World War II in the following types of claims:

1. Renegotiation rebate claims;
2. Excess inventory claims; and
3. Refunds of excessive profits resulting from redetermination of the Tax Court in lesser amounts. Interest at the rate of 4 per cent per annum is provided on such refunds.

Subsection (g) provides that existing policies, procedures, etc., of the War Contracts Price Adjustment Board, or issued under delegations of authority from it, shall continue in full force and effect unless specifically superseded.

Subsection (h) contains a saving provision to provide against the impairment of regulations or orders issued by the War Contracts Price Adjustment Board, and to protect against the lapse of litigation conducted in its name.

Subsection (i) provides that the World War II Renegotiation Act continues in full force and effect. While the work of the War Contracts Price Adjustment Board is virtually completed, there remain three principal activities which require the exercise of authority vested in it under the Renegotiation Act:

1. The payment of renegotiation rebates and other refunds;
2. The collection of moneys due under renegotiation agreements and orders; and
3. The conduct of any uncompleted renegotiations.

Subsection (j) provides for the extension of the terms "Secretary" or "Secretaries" and "Department" or "Departments" to successors in function of these officers or offices specifically named in the Renegotiation Act.

Subsection (k) provides that section 201 shall take effect 60 days after the enactment date of this act.

SECTION 202. PERIOD OF LIMITATIONS FOR RENEGOTIATION ACT OF 1948

This section provides a statute of limitations for proceedings under the Renegotiation Act of 1948. That act does not now contain any such limitation.

SECTION 203. AMENDMENT OF SECTION 3806 OF THE INTERNAL REVENUE CODE

Section 3806 of the Internal Revenue Code provides, in general, that the amount of excessive profits to be eliminated shall be credited by the amount of Federal income and excess profits taxes paid with respect to such excessive profits. This section of the bill amends section 3806 of the code to make the appropriate references to the Renegotiation Act of 1948 and the Renegotiation Act of 1951.

SECTION 204. SEPARABILITY PROVISION

This section provides that, if any provision of this act or the application of any provision to any person or circumstance is held invalid, the validity of the remainder of the act and of the application of its provisions to other persons and circumstances shall not be affected thereby.



Calendar No. 89

82^d CONGRESS
1ST SESSION

H. R. 1724

[Report No. 92]

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 8), 1951

Read twice and referred to the Committee on Finance

FEBRUARY 14, 1951

Reported, under authority of the order of the Senate of February 12 (legislative day, January 29), 1951, by Mr. GEORGE, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To provide for the renegotiation of contracts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Renegotiation Act of
4 1951".

5 TITLE I—RENEGOTIATION OF CONTRACTS

6 SEC. 101. DECLARATION OF POLICY.

7 It is hereby recognized and declared that the Congress
8 has made available for the execution of the national defense

1 program extensive funds, by appropriation and otherwise,
2 for the procurement of property, processes, and services, and
3 the construction of facilities necessary for the national de-
4 fense; that sound execution of the national defense program
5 requires the elimination of excessive profits from contracts
6 made with the United States, and from related subcontracts,
7 in the course of said program; and that the considered policy
8 of the Congress, in the interests of the national defense and
9 the general welfare of the Nation, requires that such excessive
10 profits be eliminated as provided in this title.

11 **SEC. 102. CONTRACTS SUBJECT TO RENEGOTIATION.**

12 (a) **IN GENERAL.**—The provisions of this title shall
13 be applicable (1) to all contracts with the Depart-
14 ments specifically named in section 103 (a), and
15 related subcontracts, to the extent of the amounts received
16 or accrued by a contractor or subcontractor on or after
17 the first day of January 1951, whether such contracts
18 or subcontracts were made on, before, or after such first
19 day, and (2) to all contracts with the Departments desig-
20 nated by the President under section 103 (a), and related
21 subcontracts, to the extent of the amounts received or accrued
22 by a contractor or subcontractor on or after the first day of
23 the first month beginning after the date of such designation,
24 whether such contracts or subcontracts were made on,
25 before, or after such first day; but the provisions of this

1 title shall not be applicable to receipts or accruals attribut-
 2 able to performance, under contracts or subcontracts, after
 3 December 31, 1953.

4 ~~(b) RENEGOTIATION ACT OF 1948.—The Renegotia-~~
 5 ~~tion Act of 1948 shall not apply with respect to any receipts~~
 6 ~~or accruals subject to renegotiation under this title. If a~~
 7 ~~contractor or subcontractor, during the same fiscal year~~
 8 ~~in which he has receipts or accruals subject to renegotiation~~
 9 ~~under this title, has other receipts or accruals from con-~~
 10 ~~tracts or subcontracts subject to renegotiation under the~~
 11 ~~Renegotiation Act of 1948, the provisions of this title~~
 12 ~~shall, notwithstanding subsection (a), apply to such~~
 13 ~~other receipts or accruals if the Board and such con-~~
 14 ~~tractor or subcontractor agree to such application of~~
 15 ~~this title; and in the case of such an agreement the provisions~~
 16 ~~of the Renegotiation Act of 1948 shall not apply to such~~
 17 ~~other receipts or accruals of the fiscal year.~~

18 *(b) PERFORMANCE PRIOR TO JULY 1, 1950.—Not-*
 19 *withstanding the provisions of subsection (a), the provisions*
 20 *of this title shall not apply to contracts with the Departments,*
 21 *or related subcontracts, to the extent of the amounts received or*
 22 *accrued by a contractor or subcontractor on or after the 1st*
 23 *day of January 1951, which are attributable to performance,*
 24 *under such contracts or subcontracts, prior to July 1, 1950.*

25 *(c) RENEGOTIATION ACT OF 1948.—The Renegotia-*

tion Act of 1948 shall not be applicable to any contract or subcontract to the extent of the amounts received or accrued by a contractor or subcontractor on or after the 1st day of January 1951, and attributable to performance after June 30, 1950, whether such contract or subcontract was made on, before, or after such first day. In the case of a fiscal year beginning in 1950 and ending in 1951, if a contractor or subcontractor has receipts or accruals prior to January 1, 1951, from contracts or subcontracts subject to the Renegotiation Act of 1948, and also has receipts or accruals after December 31, 1950, to which the provisions of this title are applicable, the provisions of this title shall, notwithstanding subsection (a), apply to such receipts and accruals prior to January 1, 1951, if the Board and such contractor or subcontractor agree to such application of this title; and in the case of such an agreement the provisions of the Renegotiation Act of 1948 shall not apply to any of the receipts or accruals for such fiscal year.

~~(e)~~ (d) SUSPENSION OF CERTAIN PROFIT LIMITATIONS.—Notwithstanding any agreement to the contrary, the profit-limitation provisions of the Act of March 27, 1934 (48 Stat. 503, 505), as amended and supplemented, and of section 505 (b) of the Merchant Marine Act, 1936, as amended and supplemented (46 U. S. C. 1155 (b)), shall not apply

1 to any contract or subcontract if any of the receipts or
2 accruals therefrom are subject to this title.

3 SEC. 103. DEFINITIONS.

4 For the purposes of this title—

5 (a) DEPARTMENT.—The term “Department” means
6 the Department of Defense, the Department of the Army,
7 the Department of the Navy, the Department of the Air
8 Force, the Department of Commerce, the General Services
9 Administration, the Atomic Energy Commission, *the Recon-*
10 *struction Finance Corporation*, and such other agencies of
11 the Government exercising functions ~~in~~ *having a direct and*
12 *immediate* connection with the national defense as the Presi-
13 dent shall designate.

14 (b) SECRETARY.—The term “Secretary” means the
15 Secretary of Defense, the Secretary of the Army, the Secre-
16 tary of the Navy, the Secretary of the Air Force, the Sec-
17 retary of Commerce, the Administrator of General Services,
18 the Atomic Energy Commission, *the Chairman of the Recon-*
19 *struction Finance Corporation*, and the head of any other
20 agency of the Government which the President shall desig-
21 nate pursuant to subsection (a) of this section.

22 (c) BOARD.—The term “Board” means the Renegotia-
23 tion Board created by section 107 (a) of this Act.

24 (d) RENEGOTIATE AND RENEGOTIATION.—The terms

1 “renegotiate” and “renegotiation” include a determination
 2 by agreement or order under this title of the amount of any
 3 excessive profits.

4 (e) EXCESSIVE PROFITS.—The term “excessive profits”
 5 means the portion of the profits derived from contracts with
 6 the Departments and subcontracts which is determined in
 7 accordance with this title to be excessive. In determining
 8 excessive profits *favorable recognition must be given to the*
 9 *efficiency of the contractor or subcontractor, with particular*
 10 *regard to attainment of quantity and quality production,*
 11 *reduction of costs, and economy in the use of materials,*
 12 *facilities, and manpower; and in addition, there shall be*
 13 taken into consideration the following factors:

14 ~~(1) Efficiency of contractor, with particular regard~~
 15 ~~to attainment of quantity and quality production, reduc-~~
 16 ~~tion of costs, and economy in the use of materials, facili-~~
 17 ~~ties, and manpower;~~

18 ~~(2)~~ (1) Reasonableness of costs and profits, with
 19 particular regard to volume of production, normal earn-
 20 ings, and comparison of war and peacetime products;

21 ~~(3)~~ (2) Reasonableness of return on ~~The~~ net worth,
 22 with particular regard to the amount and source of public
 23 and private capital employed;

24 ~~(4)~~ (3) Extent of risk assumed, including the risk
 25 incident to reasonable pricing policies;

1 ~~(5)~~ (4) Nature and extent of contribution to the
 2 defense effort, including inventive and developmental
 3 contribution and cooperation with the Government and
 4 other contractors in supplying technical assistance;

5 ~~(6)~~ (5) Character of business, including source and
 6 nature of materials, complexity of manufacturing tech-
 7 nique, character and extent of subcontracting, and rate
 8 of turn-over;

9 ~~(7)~~ (6) Such other factors the consideration of
 10 which the public interest and fair and equitable dealing
 11 may require, which factors shall be published in the regu-
 12 lations of the Board from time to time as adopted.

13 (f) PROFITS DERIVED FROM CONTRACTS WITH THE
 14 DEPARTMENTS AND SUBCONTRACTS.—The term “profits de-
 15 rived from contracts with the Departments and subcon-
 16 tracts” means the excess of the amount received or accrued
 17 under such contracts and subcontracts over the costs paid
 18 or incurred with respect thereto and determined to be
 19 allocable thereto. All items estimated to be allowable as
 20 deductions and exclusions under chapter 1 of the Internal
 21 Revenue Code (excluding taxes measured by income) shall,
 22 to the extent allocable to such contracts and subcontracts,
 23 be allowed as items of cost, except that no amount shall be
 24 allowed as an item of cost by reason of the application
 25 of a carry-over or carry-back, *but there shall be allowed as an*

1 *item of cost in any fiscal year, subject to regulations of the*
2 *Board, any excess in the preceding fiscal year of costs paid*
3 *or incurred with respect to receipts or accruals subject to*
4 *the provisions of this title over the amount of such receipts*
5 *or accruals. Such costs shall be determined in accordance*
6 *with the method of cost accounting regularly employed by*
7 *the contractor or subcontractor in keeping his books records,*
8 *but, if no such method of cost accounting has been em-*
9 *ployed, or if the method so employed does not, in the*
10 *opinion of the Board, or, upon redetermination, in the*
11 *opinion of The Tax Court of the United States, properly*
12 *reflect such costs, such costs shall be determined in accord-*
13 *ance with such method as in the opinion of the Board, or,*
14 *upon redetermination, in the opinion of The Tax Court of*
15 *the United States, does properly reflect such costs. Irre-*
16 *spective of the method employed or prescribed for determin-*
17 *ing such costs, no item of cost shall be charged to contracts*
18 *with the Departments or subcontracts or used in any manner*
19 *for the purpose of determining such costs, to the extent that,*
20 *in the opinion of the Board, or, upon redetermination, in*
21 *the opinion of The Tax Court of the United States, such*
22 *item is unreasonable or not properly chargeable to such con-*
23 *tracts or subcontracts. In determining the amount of exces-*
24 *sive profits to be eliminated, proper adjustment shall be*
25 *made on account of the taxes measured by income, other*

1 than Federal taxes, which are attributable to the portion of
2 the profits which are not excessive.

3 (g) SUBCONTRACT.—The term “subcontract” means—

4 (1) any purchase order or agreement (including
5 purchase orders or agreements antedating the related
6 prime contract or higher tier subcontract) to perform
7 all or any part of the work, or to make or furnish any
8 materials, required for the performance of any other
9 contract or subcontract, *but such term does not include*
10 *any purchase order or agreement to furnish office sup-*
11 *plies;*

12 (2) any contract or arrangement covering the right
13 to use any patented or secret method, formula, or device
14 for the performance of a contract or subcontract; and

15 (3) any contract or arrangement (other than a con-
16 tract or arrangement between two contracting parties,
17 one of whom is found by the Board to be a bona fide
18 executive officer, partner, or full-time employee of the
19 other contracting party) under which—

20 (A) any amount payable is contingent upon
21 the procurement of a contract or contracts with a
22 Department or of a subcontract or subcontracts; or

23 (B) any amount payable is determined with
24 reference to the amount of a contract or contracts

1 with a Department or of a subcontract or subcon-
2 tracts; or

3 (C) any part of the services performed or to
4 be performed consists of the soliciting, attempting to
5 procure, or procuring a contract or contracts with a
6 Department or a subcontract or subcontracts.

7 Nothing in this subsection shall be construed (i) to affect in
8 any way the validity or construction of provisions in any
9 contract with a Department or any subcontract, heretofore
10 at any time or hereafter made, prohibiting the payment of
11 contingent fees or commissions; or (ii) to restrict in any
12 way the authority of the Board to determine the nature or
13 amount of selling expense under subcontracts as defined in
14 this subsection, as a proper element of the contract price
15 or as a reimbursable item of cost, under a contract with a
16 Department or a subcontract.

17 ~~(h) FISCAL YEAR.—The term “fiscal year” means,~~
18 ~~except in the case of a partnership as defined in section~~
19 ~~3797 (a) (2) of the Internal Revenue Code, the taxable~~
20 ~~year of the contractor or subcontractor under chapter 1 of~~
21 ~~such code. In the case of a partnership as so defined the~~
22 ~~term “fiscal year” means such period as the Board by regu-~~
23 ~~lations may prescribe.~~

24 (h) FISCAL YEAR.—The term “fiscal year” means the
25 taxable year of the contractor or subcontractor under chapter

1 *1 of the Internal Revenue Code, except that where any read-*
 2 *justment of interests occurs in a partnership as defined in*
 3 *section 3797 (a) (2) of such code, the fiscal year of the*
 4 *partnership or partnerships involved in such readjustment*
 5 *shall be determined in accordance with regulations prescribed*
 6 *by the Board.*

7 (i) RECEIVED OR ACCRUED AND PAID OR INCURRED.—

8 The terms “received or accrued” and “paid or incurred”
 9 shall be construed according to the method of accounting
 10 employed by the contractor or subcontractor in keeping his
 11 ~~books~~ records, but if no such method of accounting has been
 12 employed, or if the method so employed does not, in the
 13 opinion of the Board, or, upon redetermination, in the
 14 opinion of The Tax Court of the United States, properly
 15 reflect his receipts or accruals or payments or obligations,
 16 such receipts or accruals or such payments or obligations
 17 shall be determined in accordance with such method as in
 18 the opinion of the Board, or, upon redetermination, in the
 19 opinion of The Tax Court of the United States, does properly
 20 reflect such receipts or accruals or such payments or
 21 obligations.

22 (j) PERSON.—The term “person” shall include an indi-
 23 vidual, firm, corporation, association, partnership, and any
 24 organized group of persons whether or not incorporated.

25 (k) MATERIALS.—The term “materials” shall include

1 raw materials, articles, commodities, parts, assemblies, prod-
2 ucts, machinery, equipment, supplies, components, technical
3 data, processes, and other personal property.

4 (1) AGENCY OF THE GOVERNMENT.—The term “agency
5 of the Government” means any part of the executive branch
6 of the Government or any independent establishment of
7 the Government or part thereof, including any department
8 (whether or not a Department as defined in subsection (a)
9 of this section), any corporation wholly or partly owned by
10 the United States which is an instrumentality of the United
11 States, or any board, bureau, division, service, office, officer,
12 employee, authority, administration, or other establishment
13 of the Government which is not a part of the legislative or
14 judicial branches.

15 **SEC. 104. RENEGOTIATION CLAUSE IN CONTRACTS.**

16 Subject to section 106 (a), the Secretary of each
17 Department specifically named in section 103 (a) shall
18 insert in each contract made by such Department thirty
19 days or more after the date of the enactment of this Act,
20 and the Secretary of each Department designated by the
21 President under section 103 (a) shall insert in each contract
22 made by such Department thirty days or more after the date
23 of such designation, a provision under which the contractor
24 agrees—

1 (1) to the elimination of excessive profits through
2 renegotiation;

3 (2) that there may be withheld by the United
4 States from amounts otherwise due the contractor, or
5 that he will repay to the United States, if paid to him,
6 any excessive profits;

7 (3) that he will insert in each subcontract described
8 in section 103 (g) a provision under which the subcon-
9 tractor agrees—

10 (A) to the elimination of excessive profits
11 through renegotiation;

12 (B) that there may be withheld by the con-
13 tractor for the United States from amounts other-
14 wise due to the subcontractor, or that the subcon-
15 tractor will repay to the United States, if paid to
16 him, any excessive profits;

17 (C) that the contractor shall be relieved of all
18 liability to the subcontractor on account of any
19 amount so withheld, or so repaid by the subcon-
20 tractor to the United States;

21 (D) that he will insert in each subcontract
22 described in section 103 (g) provisions correspond-
23 ing to those of subparagraphs (A), (B), and (C),
24 and to those of this subparagraph;

1 (4) that there may be withheld by the United
2 States from amounts otherwise due the contractor, or
3 that he will repay to the United States, as the Secretary
4 may direct, any amounts which under section 105 (b)
5 (1) (C) the contractor is directed to withhold from a
6 subcontractor and which are actually unpaid at the time
7 the contractor receives such direction.

8 The obligations assumed by the contractor or subcontractor
9 under paragraph (1) or (3) (A), as the case may be,
10 agreeing to the elimination of excessive profits through re-
11 negotiation shall be binding on him only if the contract or
12 subcontract, as the case may be, is subject to this title. A
13 provision inserted in a contract or subcontract, which recites
14 in substance that the contract or subcontract shall be deemed
15 to contain all the provisions required by this section shall be
16 sufficient compliance with this section. Whether or not the
17 provisions specified in this section are inserted in a contract
18 with a Department or subcontract, to which this title is
19 applicable, such contract or subcontract, as the case may be,
20 shall be considered as having been made subject to this title
21 in the same manner and to the same extent as if such pro-
22 visions had been inserted.

23 **SEC. 105. RENEGOTIATION PROCEEDINGS.**

24 (a) **PROCEEDINGS BEFORE THE BOARD.**—Renegotiation
25 proceedings shall be commenced by the mailing of notice to

1 that effect, in such form as may be prescribed by regulation,
2 by registered mail to the contractor or subcontractor. The
3 Board shall endeavor to make an agreement with the con-
4 tractor or subcontractor with respect to the elimination of
5 excessive profits received or accrued, and with respect to
6 such other matters relating thereto as the Board deems ad-
7 visable. Any such agreement, if made, may, with the con-
8 sent of the contractor or subcontractor, also include provi-
9 sions with respect to the elimination of excessive profits
10 likely to be received or accrued. If the Board does not make
11 an agreement with respect to the elimination of excessive
12 profits received or accrued, it shall issue and enter an order
13 determining the amount, if any, of such excessive profits,
14 and forthwith give notice thereof by registered mail to the
15 contractor or subcontractor. In the absence of the filing of
16 a petition with The Tax Court of the United States under
17 the provisions of and within the time limit prescribed in
18 section 108, such order shall be final and conclusive and shall
19 not be subject to review or redetermination by any court or
20 other agency. The Board shall exercise its powers with
21 respect to the aggregate of the amounts received or accrued
22 during the fiscal year (or such other period as may be fixed
23 by mutual agreement) by a contractor or subcontractor
24 under contracts with the Departments and subcontracts, and
25 not separately with respect to amounts received or accrued

1 under separate contracts with the Departments or subcon-
2 tracts, except that the Board may exercise such powers
3 separately with respect to amounts received or accrued by
4 the contractor or subcontractor under any one or more sepa-
5 rate contracts with the Departments or subcontracts at the
6 request of the contractor or subcontractor. By agreement
7 with any contractor or subcontractor, and pursuant to regu-
8 lations promulgated by it, the Board may in its discretion
9 conduct renegotiation on a consolidated basis in order prop-
10 erly to reflect excessive profits of two or more related con-
11 tractors or subcontractors. *The Board shall conduct renego-*
12 *tiation on a consolidated basis with a parent and its subsidiary*
13 *corporations which constitute an affiliated group under sub-*
14 *section (d) of section 141 of the Internal Revenue Code if*
15 *all of the corporations included in such affiliated group*
16 *request such consolidation and consent to such regula-*
17 *tions as the Board shall prescribe with respect to the*
18 *determination and elimination of excessive profits of such*
19 *affiliated group.* Whenever the Board makes a determina-
20 tion with respect to the amount of excessive profits, and
21 such determination is made by order, it shall, at the request
22 of the contractor or subcontractor, as the case may be,
23 prepare and furnish such contractor or subcontractor with
24 a statement of such determination, of the facts used as a
25 basis therefor, and of its reasons for such determination.

1 Such statement shall not be used in The Tax Court of the
2 United States as proof of the facts or conclusions stated
3 therein.

4 (b) METHODS OF ELIMINATING EXCESSIVE PROFITS.—

5 (1) IN GENERAL.—Upon the making of an agree-
6 ment, or the entry of an order, under subsection (a) of
7 this section by the Board, or the entry of an order
8 under section 108 by The Tax Court of the United
9 States, determining excessive profits, the Board shall
10 forthwith authorize and direct the Secretaries or any of
11 them to eliminate such excessive profits—

12 (A) by reductions in the amounts otherwise
13 payable to the contractor under contracts with the
14 Departments, or by other revision of their terms;

15 (B) by withholding from amounts otherwise
16 due to the contractor any amount of such excessive
17 profits;

18 (C) by directing any person having a contract
19 with any agency of the Government, or any sub-
20 contractor thereunder, to withhold for the account
21 of the United States from any amounts otherwise due
22 from such person or such subcontractor to a con-
23 tractor, or subcontractor, having excessive profits to
24 be eliminated, and every such person or sub-

1 contractor receiving such direction shall withhold
2 and pay over to the United States the amounts
3 so required to be withheld;

4 (D) by recovery from the contractor or sub-
5 contractor, or from any person or subcontractor
6 directed under subparagraph (C) to withhold for
7 the account of the United States, through payment,
8 repayment, credit, or suit any amount of such
9 excessive profits realized by the contractor or sub-
10 contractor or directed under subparagraph (C) to
11 be withheld for the account of the United States; or

12 (E) by any combination of these methods, as
13 is deemed desirable.

14 (2) INTEREST.—Interest at the rate of 6 4 per
15 centum per annum shall accrue and be paid on the
16 amount of such excessive profits from the ~~date fixed for~~
17 ~~repayment by~~ *thirtieth day after the date of* the order
18 of the Board or *from the date fixed for repayment* by the
19 agreement with the contractor or subcontractor to the
20 date of repayment, and on amounts required to be with-
21 held by any person or subcontractor for the account of
22 the United States pursuant to paragraph (1) (C), from
23 the date payment is demanded by the Secretaries or
24 any of them to the date of payment. When The Tax
25 Court of the United States, under section 108, redeter-

1 mines the amount of excessive profits received or accrued
2 by a contractor or subcontractor, interest at the rate of
3 6 ~~4~~ per centum per annum shall accrue and be paid by
4 such contractor or subcontractor as follows:

5 (A) When the amount of excessive profits
6 determined by the Tax Court is greater than the
7 amount determined by the Board, interest shall
8 accrue and be paid on the amount determined by the
9 Board from the ~~date originally fixed by the Board for~~
10 ~~its repayment~~ *thirtieth day after the date of the*
11 *order of the Board* to the date of repayment and, in
12 addition thereto, interest shall accrue and be paid
13 on the additional amount determined by the Tax
14 Court from the date of its order determining such
15 excessive profits to the date of repayment.

16 (B) When the amount of excessive profits
17 determined by the Tax Court is equal to the amount
18 determined by the Board, interest shall accrue and
19 be paid on such amount from the ~~date originally~~
20 ~~fixed by the Board for its repayment~~ *thirtieth day*
21 *after the date of the order of the Board* to the date
22 of repayment.

23 (C) When the amount of excessive profits
24 determined by the Tax Court is less than the amount
25 determined by the Board, ~~interest~~ shall accrue and be

1 paid on such lesser amount from the ~~date originally~~
2 ~~fixed for repayment by the Board~~ *thirtieth day after*
3 *the date of the order of the Board* to the date of
4 repayment, *except that no interest shall accrue or be*
5 *payable on such lesser amount if such lesser amount*
6 *is not in excess of an amount which the contractor*
7 *or subcontractor tendered in payment prior to the*
8 *filing of the petition with the Tax Court.*

9 *Notwithstanding the provisions of this paragraph, no*
10 *interest shall accrue after three years from the date*
11 *of filing a petition with the Tax Court pursuant to*
12 *section 108 of this title in any case in which there has*
13 *not been a final determination by the Tax Court with*
14 *respect to such petition within such three-year period.*

15 (3) SUITS FOR RECOVERY.—Actions on behalf of
16 the United States may be brought in the appropriate
17 courts of the United States to recover, (A) from the
18 contractor or subcontractor, any amount of such ex-
19 cessive profits and accrued interest not withheld or
20 eliminated by some other method under this subsection,
21 and (B) from any person or subcontractor who has been
22 directed under paragraph (1) (C) of this subsection
23 to withhold for the account of the United States, the
24 amounts required to be withheld under such paragraph,
25 together with accrued interest thereon.

(4) SURETIES.—The surety under a contract or subcontract shall not be liable for the repayment of any excessive profits thereon.

(5) ASSIGNEES.—Nothing herein contained shall be construed to authorize any agency of the Government, except as provided in the Assignment of Claims Act of 1940 (54 Stat. 1029), as now or hereafter amended, to withhold from an assignee any moneys due or to become due under any contract with a Department where such moneys have been assigned pursuant to such Act, or to authorize any agency of the Government to direct the withholding pursuant to subsection (b) (1) (C) of this section from an assignee bank (as defined in section 104 (a) of the Internal Revenue Code) or from an assignee Federal lending agency of any moneys due or to become due under any subcontract where such moneys have been assigned to such an assignee as collateral for a loan.

~~(5)~~ (6) INDEMNIFICATION.—Each person is hereby indemnified by the United States against all claims on account of amounts withheld by such person pursuant to this subsection from a contractor or subcontractor and paid over to the United States.

~~(6)~~ (7) TREATMENT OF RECOVERIES.—All money recovered in respect to amounts paid to a contractor from appropriations from the Treasury by way of repayment

1 or suit under this subsection shall be covered into the
 2 Treasury as miscellaneous receipts. Upon the withhold-
 3 ing of any amount of excessive profits or the crediting of
 4 any amount of excessive profits against amounts other-
 5 wise due a contractor, the Secretary shall certify the
 6 amount thereof to the Treasury and the appropriations
 7 of his Department shall be reduced by an amount equal
 8 to the amount so withheld or credited. The amount of
 9 such reductions shall be transferred to the surplus fund
 10 of the Treasury. All money recovered in respect of
 11 amounts paid to the contractor from corporate or other
 12 revolving funds (other than appropriations from the
 13 Treasury) by way of repayment, withholding, crediting,
 14 or suit under this section shall be restored to such funds.
 15 The Board is authorized to make regulations giving effect
 16 to the intent of this provision in respect of money recov-
 17 ered representing subcontract excessive profits not readily
 18 identifiable as to the public funds ultimately reflecting
 19 charges therefor.

20 ~~(7)~~ (8) CREDIT FOR TAXES PAID.—In eliminating
 21 excessive profits, the Secretary shall allow the contractor
 22 or subcontractor credit for Federal income and excess
 23 profits taxes as provided in section 3806 of the Internal
 24 Revenue Code.

25 (c) PERIODS OF LIMITATIONS.—No proceeding to de-

1 termine the amount of excessive profits for any fiscal year
2 shall be commenced more than one year after the state-
3 ment required under subsection (e) (1) of this section is
4 filed with the Board with respect to such year, and, if such
5 proceeding is not commenced prior to the expiration of
6 one year following the date upon which such statement is so
7 filed, all liabilities of the contractor or subcontractor for
8 excessive profits received or accrued during such fiscal year
9 shall thereupon be discharged. If an agreement or order
10 determining the amount of excessive profits is not made
11 within two years following the commencement of the re-
12 negotiation proceeding, then upon the expiration of such
13 two years all liabilities of the contractor or subcontractor
14 for excessive profits with respect to which such proceeding
15 was commenced shall thereupon be discharged, except that
16 (1) if an order is made within such two years pursuant
17 to a delegation of authority under subsection (d) of section
18 107, such two-year limitation shall not apply to review of
19 such order by the Board, and (2) such two-year period
20 may be extended by mutual agreement.

21 (d) AGREEMENTS TO ELIMINATE EXCESSIVE PROF-
22 ITS.—For the purposes of this title the Board may make final
23 or other agreements with a contractor or subcontractor for
24 the elimination of excessive profits and for the discharge of
25 any liability for excessive profits under this title. Such agree-

1 ments may contain such terms and conditions as the Board
2 deems advisable. Any such agreement shall be conclusive
3 according to its terms; and, except upon a showing of fraud
4 or malfeasance or a willful misrepresentation of a material
5 fact, (1) such agreement shall not for the purposes of this
6 title be reopened as to the matters agreed upon, and shall not
7 be modified by any officer, employee, or agent of the United
8 States, and (2) such agreement and any determination made
9 in accordance therewith shall not be annulled, modified, set
10 aside, or disregarded in any suit, action, or proceeding. Not-
11 withstanding any other provision of this title, however, the
12 Board shall have the power, pursuant to regulations promul-
13 gated by it, to modify any agreement or order for the purpose
14 of extending the time for payment of sums due under such
15 agreement or order.

16 (e) INFORMATION AVAILABLE TO BOARD.—

17 (1) FURNISHING OF FINANCIAL STATEMENTS,
18 ETC.—Every person who holds contracts or subcontracts,
19 to which the provisions of this title are applicable, shall,
20 in such form and detail as the Board may by regulations
21 prescribe, file with the Board, on or before the first day
22 of the fourth calendar month following the close of his
23 fiscal year, a financial statement setting forth such
24 information as the Board may by regulations prescribe
25 as necessary to carry out this title. In addition to the

1 statement required under the preceding sentence, every
2 such person shall, at such time or times and in such form
3 and detail as the Board may by regulations prescribe,
4 furnish the Board any information, records, or data which
5 are determined by the Board to be necessary to carry out
6 this title. Any person who willfully fails or refuses to
7 furnish any statement, information, records, or data re-
8 quired of him under this subsection, or who knowingly
9 furnishes any such statement, information, records, or
10 data containing information which is false or misleading
11 in any material respect, shall, upon conviction thereof, be
12 punished by a fine of not more than \$10,000 or impris-
13 onment for not more than one year, or both.

14 (2) AUDIT OF BOOKS AND RECORDS.—For the pur-
15 pose of this title, the Board shall have the right to audit
16 the books and records of any contractor or subcontractor
17 subject to this title. In the interest of economy and
18 the avoidance of duplication of inspection and audit, the
19 services of the Bureau of Internal Revenue shall, upon
20 request of the Board and the approval of the Secretary
21 of the Treasury, be made available to the extent deter-
22 mined by the Secretary of the Treasury for the purpose
23 of making examinations and audits under this title.

1 (f) MINIMUM AMOUNTS SUBJECT TO RENEGOTIA-
2 TION.—

3 (1) IN GENERAL.—If the aggregate of the amounts
4 received or accrued during a fiscal year (and on or after
5 the applicable effective date specified in section 102
6 (a)) by a contractor or subcontractor, and all persons
7 under control of or controlling or under common con-
8 trol with the contractor or subcontractor, under contracts
9 with the Departments and subcontracts described in
10 section 103 (g) (1) and (2), is not more than
11 ~~\$100,000~~ \$500,000, the receipts or accruals from such
12 contracts and subcontracts shall not, for such fiscal year,
13 be renegotiated under this title. If the aggregate of such
14 amounts received or accrued during the fiscal year under
15 such contracts and subcontracts is more than ~~\$100,000~~
16 \$500,000, no determination of excessive profits to be
17 eliminated for such year with respect to such contracts
18 and subcontracts shall be in an amount greater than
19 the amount by which such aggregate exceeds ~~\$100,000~~
20 \$500,000.

21 (2) SUBCONTRACTS DESCRIBED IN SECTION 103
22 (G) (3).—If the aggregate of the amounts received or
23 accrued during a fiscal year (and on or after the ap-
24 plicable effective date specified in section 102 (a)) by
25 a subcontractor, and all persons under control of or con-

1 trolling or under common control with the subcontractor,
2 under subcontracts described in section 103 (g) (3)
3 is not more than \$25,000, the receipts or accruals from
4 such subcontracts shall not, for such fiscal year, be
5 renegotiated under this title. If the aggregate of such
6 amounts received or accrued during the fiscal year under
7 such subcontracts is more than \$25,000, no determina-
8 tion of excessive profits to be eliminated for such year
9 with respect to such subcontracts shall be in an amount
10 greater than the amount by which such aggregate exceeds
11 \$25,000.

12 (3) COMPUTATION.—~~In computing the aggregate~~
13 ~~of the amounts received or accrued during any fiscal~~
14 ~~year for the purposes of paragraphs (1) and (2) of this~~
15 ~~subsection, such computation shall be made without~~
16 ~~elimination of intercompany sales.~~ If the fiscal year is
17 a fractional part of twelve months, the ~~\$100,000~~
18 ~~\$500,000~~ amount and the \$25,000 amount shall be
19 reduced to the same fractional part thereof for the
20 purposes of paragraphs (1) and (2). *In the case of a*
21 *fiscal year beginning in 1950 and ending in 1951, the*
22 *\$500,000 amount and the \$25,000 amount shall be*
23 *reduced to an amount which bears the same ratio to*
24 *\$500,000 or \$25,000, as the case may be, as the num-*
25 *ber of days in such fiscal year after December 31, 1950,*

1 *bears to 365, but this sentence shall have no application*
 2 *if the contractor or subcontractor has made an agreement*
 3 *with the Board pursuant to section 102 (c) for the*
 4 *application of the provisions of this title to receipts or*
 5 *accruals prior to January 1, 1951, during such fiscal*
 6 *year.*

7 **SEC. 106. EXEMPTIONS.**

8 (a) **MANDATORY EXEMPTIONS.**—The provisions of this
 9 title shall not apply to—

10 (1) any contract by a Department with any Terri-
 11 tory, possession, or State, or any agency or political sub-
 12 division thereof, or with any foreign government or any
 13 agency thereof; or

14 (2) any contract or subcontract for an agricultural
 15 commodity in its raw or natural state, or if the com-
 16 modity is not customarily sold or has not an established
 17 market in its raw or natural state, in the first form or
 18 state, beyond the raw or natural state, in which it is
 19 customarily sold or in which it has an established mar-
 20 ket, ~~but only if such contract or subcontract is with the~~
 21 ~~producer of such agricultural commodity.~~ The term
 22 “agricultural commodity” as used herein shall include
 23 but shall not be limited to—

24 (A) commodities resulting from the cultivation
 25 of the soil such as grains of all kinds, fruits, nuts,

1 vegetables, hay, straw, cotton, tobacco, sugarcane,
2 and sugar beets;

3 (B) natural resins, saps, and gums of trees;

4 (C) animals, such as cattle, hogs, poultry, and
5 sheep, fish and other marine life, and the produce
6 of live animals, such as wool, eggs, milk and
7 cream; or

8 (3) any contract or subcontract for the product
9 of a mine, oil or gas well, or other mineral or natural
10 deposit, *or timber*, which has not been processed, refined,
11 or treated beyond the ~~ordinary treatment processes nor-~~
12 mally applied by producers in order to obtain the first
13 commercially marketable product, but only if such con-
14 tract or subcontract is with the owner or operator of the
15 mine, well, or deposit from which such product is pro-
16 duced. The term "ordinary treatment processes" means,
17 in the case of the product of a mine, well, or deposit with
18 respect to which an allowance for percentage depletion
19 is provided by section 114 ~~(b)~~ (3) or (4) of the
20 Internal Revenue Code, those processes which are taken
21 into account under such section in computing gross in-
22 come from the property, and in the case of any other
23 product such term means such similar processes as may
24 be prescribed under regulations promulgated by the

1 ~~Board; or first form or state suitable for industrial use;~~
 2 ~~or~~

3 ~~(4) Any contract or subcontract for timber which~~
 4 ~~has not been processed beyond the form of logs, but only~~
 5 ~~if such contract or subcontract is with the owner of the~~
 6 ~~timber property or with the producer of the logs; or~~

7 (4) any contract or subcontract with a common car-
 8 rier for transportation, or with a public utility for gas,
 9 electric energy, water, communications, or transporta-
 10 tion, when made in either case at rates not in excess of
 11 published rates or charges filed with, fixed, approved,
 12 or regulated by a public regulatory body, State, Federal,
 13 or local, or at rates not in excess of unregulated
 14 rates of such a public utility which are substantially
 15 as favorable to users and consumers as are regulated
 16 rates. In the case of the furnishing or sale of transporta-
 17 tion by common carrier by water, this paragraph shall
 18 apply only to such furnishing or sale which is subject
 19 to the jurisdiction of the Interstate Commerce Commis-
 20 sion under Part III of the Interstate Commerce Act
 21 or subject to the jurisdiction of the Federal Maritime
 22 Board under the Intercoastal Shipping Act, 1933; or

23 (5) any contract or subcontract with an organiza-
 24 tion exempt from taxation under section 101 (6) of the
 25 Internal Revenue Code, provided that the income from
 26 such contract or subcontract would not constitute "unre-

lated business income" within the meaning of section 422 of the Internal Revenue Code; or

~~(5)~~(6) any subcontract directly or indirectly under a contract or subcontract to which this title does not apply by reason of this subsection.

~~(b) COST ALLOWANCE.—In the case of a contractor or subcontractor who produces an agricultural product and processes, refines, or treats such a product beyond the first form or state provided in paragraph (2) of subsection (a); or who produces the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, and processes, refines, or treats such a product beyond the first commercially marketable state provided in paragraph (3) of subsection (a) or, in the case of timber, beyond the form of logs, the Board shall prescribe such regulations as may be necessary to give the contractor or subcontractor a cost allowance substantially equivalent to the amount which would have been realized by such contractor or subcontractor if he had sold the product in the form or state provided in paragraph (2) or (3) of subsection (a); or, in the case of timber, in the form of logs.~~

(b) COST ALLOWANCE.—In the case of a contractor or subcontractor who produces or acquires the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, and processes, refines, or treats such a product to

1 and beyond the first form or state suitable for industrial use,
2 or who produces or acquires an agricultural product and
3 processes, refines, or treats such a product to and beyond the
4 first form or state in which it is customarily sold or in which
5 it has an established market, the Board shall prescribe such
6 regulations as may be necessary to give such contractor or
7 subcontractor a cost allowance substantially equivalent to the
8 amount which would have been realized by such contractor or
9 subcontractor if he had sold such product at such first form
10 or state. Notwithstanding any other provisions of this title,
11 there shall be excluded from consideration in determining
12 whether or not a contractor or subcontractor has received or
13 accrued excessive profits that portion of the profits, derived
14 from receipts and accruals subject to the provisions of this
15 title, attributable to the increment in value of the excess
16 inventory. For the purposes of this subsection the term
17 "excess inventory" means inventory of products, hereinbe-
18 fore described in this subsection, acquired by the contractor
19 or subcontractor in the form or at the state in which con-
20 tracts for such products on hand or on contract would be
21 exempted from this title by subsection (a) (2) or (3) of this
22 section, which is in excess of the inventory reasonably neces-
23 sary to fulfill existing contracts or orders. That portion of the
24 profits, derived from receipts and accruals subject to the
25 provisions of this title, attributable to the increment in value

1 of the excess inventory, and the method of excluding such
 2 portion of profits from consideration in determining whether
 3 or not the contractor or subcontractor has received or accrued
 4 excessive profits, shall be determined in accordance with
 5 regulations prescribed by the Board.

6 (c) *PARTIAL MANDATORY EXEMPTION FOR DURABLE*
 7 *PRODUCTIVE EQUIPMENT.*—

8 (1) *IN GENERAL.*—The provisions of this title shall
 9 not apply to receipts or accruals from subcontracts for
 10 durable productive equipment, except to that part of
 11 such receipts or accruals which bears the same ratio to
 12 the total of such receipts or accruals as five years bears
 13 to the average useful life of such equipment as set forth
 14 in Bulletin F of the Bureau of Internal Revenue (1942
 15 edition) or, if an average useful life is not so set forth,
 16 then as estimated by the Board.

17 (2) *DEFINITIONS.*—For the purpose of this sub-
 18 section—

19 (A) the term “durable productive equipment”
 20 means machinery, tools, or other equipment which
 21 does not become a part of an end product, or of
 22 an article incorporated therein, and which has an
 23 average useful life of more than five years; and

24 (B) the term “subcontracts for durable pro-
 25 ductive equipment” does not include subcontracts

1 *where the purchaser of such durable productive*
2 *equipment has acquired such equipment for the*
3 *account of the Government, but includes pool orders*
4 *and similar commitments placed in the first instance*
5 *by a Department or other agency of the Government*
6 *when title to the equipment is transferred on delivery*
7 *thereof or within one year thereafter to a contractor*
8 *or subcontractor.*

9 ~~(e)~~ (d) PERMISSIVE EXEMPTIONS.—The Board is au-
10 *thorized, in its discretion, to exempt from some or all of the*
11 *provisions of this title—*

12 (1) any contract or subcontract to be performed
13 *outside of the territorial limits of the continental United*
14 *States or in Alaska;*

15 (2) any contracts or subcontracts under which,
16 *in the opinion of the Board, the profits can be deter-*
17 *mined with reasonable certainty when the contract*
18 *price is established, such as certain classes of (A) agree-*
19 *ments for personal services or for the purchase of real*
20 *property, perishable goods, or commodities the mini-*
21 *imum price for the sale of which has been fixed by a*
22 *public regulatory body, (B) leases and license agree-*
23 *ments, and (C) agreements where the period of per-*
24 *formance under such contract or subcontract will not*
25 *be in excess of thirty days;*

(3) any contract or subcontract or performance thereunder during a specified period or periods if, in the opinion of the Board, the provisions of the contract are otherwise adequate to prevent excessive profits;

(4) any contract or subcontract the renegotiation of which would jeopardize secrecy required in the public interest;

(5) any subcontract or group of subcontracts not otherwise exempt from the provisions of this section, if, in the opinion of the Board, it is not administratively feasible in the case of such subcontract or in the case of such group of subcontracts to determine and segregate the profits attributable to such subcontract or group of subcontracts from the profits attributable to activities not subject to renegotiation.

The Board may so exempt contracts and subcontracts both individually and by general classes or types.

SEC. 107. RENEGOTIATION BOARD.

~~(a) CREATION OF BOARD.~~—There is hereby created, as an independent establishment in the executive branch of the Government, a Renegotiation Board to be composed of five members appointed by the President, by and with the advice and consent of the Senate. Not less than three members of the Board shall be appointed from civilian life. The President shall designate one member to serve as chair-

1 man of the Board. Each member shall receive compensation
 2 at the rate of \$12,500 per annum. No member shall
 3 engage in any business, vocation, or employment other than
 4 that as a member of the Board. The Board shall have a
 5 seal which shall be judicially recognized.

6 (a) CREATION OF BOARD.—There is hereby created, as
 7 an independent establishment in the executive branch of the
 8 Government, a Renegotiation Board to be composed of five
 9 members to be appointed by and with the advice and consent
 10 of the Senate; one by the President, to serve as Chairman;
 11 one each by the Secretaries of the Army, the Navy, and the
 12 Air Force, respectively, subject to the approval of the Secre-
 13 tary of defense; and one by the Administrator of General
 14 Services. The Chairman shall receive compensation at the
 15 rate of \$17,500 per annum, and the other members shall
 16 receive compensation at the rate of \$15,000 per annum. The
 17 Board shall have a seal which shall be judicially noticed.

18 (b) PLACES OF MEETINGS AND QUORUM.—The prin-
 19 cipal office of the Board shall be at such place as may be
 20 determined from time to time by the Board in the District
 21 of Columbia, but it or any division thereof may meet and
 22 exercise its powers at any other place. The Board may
 23 establish such number of offices as it deems necessary to
 24 expedite the work of the Board. Three members of the

1 Board shall constitute a quorum, and any power, function,
2 or duty of the Board may be exercised or performed by a
3 majority of the members present if the members present
4 constitute at least a quorum.

5 (c) PERSONNEL.—The Board is authorized, subject to
6 ~~the civil service laws and~~ the Classification Act of 1949
7 (*but without regard to the civil-service laws and regulations*),
8 to employ and fix the compensation of such officers and em-
9 ployees as it deems necessary to assist it in carrying out its
10 duties under this title. The Board may, with the consent
11 of the head of the agency of the Government concerned,
12 utilize the services of any officers or employees of the United
13 States, and reimburse such agency for the services so utilized.
14 Officers or employees whose services are so utilized shall not
15 receive additional compensation for such services, but shall
16 be allowed and paid necessary travel expenses and a per
17 diem in lieu of subsistence in accordance with the Standard-
18 ized Government Travel Regulations while away from their
19 homes or official station on duties of the Board.

20 (d) DELEGATION OF POWERS.—The Board may dele-
21 gate in whole or in part any function, power, or duty (other
22 than its power to promulgate regulations and rules) to any
23 agency of the Government, including any such agency estab-
24 lished by the Board, and may authorize the successive re-

1 delegation, within limits specified by it, of any such func-
 2 tion, power, or duty to any agency of the Government,
 3 including any such agency established by the Board. *But*
 4 *no function, power, or duty shall be delegated or redelegated*
 5 *to any person pursuant to this subsection or subsection (f)*
 6 *unless the Board has determined that such person is responsi-*
 7 *ble directly to the Board or to the person making such dele-*
 8 *gation or redelegation and is not engaged on behalf of any*
 9 *Department in the making of contracts for the procurement of*
 10 *supplies or services, or in the supervision of such activity;*
 11 *and any delegation or redelegation of any function, power,*
 12 *or duty pursuant to this subsection or subsection (f) shall*
 13 *be revoked by the person making such delegation or redelega-*
 14 *tion (or by the Board if made by it) if the Board shall at*
 15 *any time thereafter determine that the person to whom has been*
 16 *delegated or redelegated such function, power, or duty is not*
 17 *responsible directly to the Board or to the person making*
 18 *such delegation or redelegation or is engaged on behalf of any*
 19 *Department in the making of contracts for the procurement*
 20 *of supplies or services, or in the supervision of such activity.*

21 (e) ORGANIZATION AND OPERATION OF BOARD.—The
 22 Chairman of the Board may from time to time divide the
 23 Board into divisions of one or more members, assign the
 24 members of the Board thereto, and in case of a division

1 of more than one member, designate the chief thereof.
2 The Board may also, by regulations or otherwise, determine
3 the character of cases to be conducted initially by the Board
4 through an officer or officers of, or utilized by, the Board,
5 the character of cases to be conducted initially by the various
6 agencies of the Government authorized to exercise powers of
7 the Board pursuant to subsection (d) of this section, the
8 character of cases to be conducted initially by the various
9 divisions of the Board, and the character of cases to be con-
10 ducted initially by the Board itself. The Board may review
11 any determination in any case not initially conducted by it,
12 on its own motion or, in its discretion, at the request of
13 any contractor or subcontractor aggrieved thereby. Unless
14 the Board upon its own motion initiates a review of such
15 determination within ninety days from the date of such
16 determination, or at the request of the contractor or sub-
17 contractor made within ninety days from the date of such
18 determination initiates a review of such determination within
19 ninety days from the date of such request, such determination
20 shall be deemed the determination of the Board. If such
21 determination was made by an order with respect to which
22 notice thereof was given by registered mail pursuant to
23 section 105 (a), the Board shall give notice by registered
24 mail to the contractor or subcontractor of its decision not
25 to review the case. If the Board reviews any determination

1 in any case not initially conducted by it and does not make
2 an agreement with the contractor or subcontractor with
3 respect to the elimination of excessive profits, it shall issue and
4 enter an order under section 105 (a) determining the
5 amount, if any, of excessive profits, and forthwith give notice
6 thereof by registered mail to the contractor or subcontractor.
7 The amount of excessive profits so determined upon review
8 may be less than, equal to, or greater than, that determined
9 by the agency of the Government whose action is so
10 reviewed.

11 (f) DELEGATION OF RENEGOTIATION FUNCTIONS TO
12 BOARD.—The Board is hereby authorized and directed to
13 accept and perform such renegotiation powers, duties, and
14 functions as may be delegated to it under any other law
15 requiring or permitting renegotiation, and the Board is
16 further authorized to redelegate any such power, duty, or
17 function to any agency of the Government and to authorize
18 successive redelegations thereof, within limits specified by
19 the Board. Notwithstanding any other provision of law, the
20 Secretary of Defense is hereby authorized to delegate to the
21 Board, in whole or in part, the powers, functions, and duties
22 conferred upon him by any other renegotiation law.

23 **SEC. 108. REVIEW BY THE TAX COURT.**

24 Any contractor or subcontractor aggrieved by an order
25 of the Board determining the amount of excessive profits

1 received or accrued by such contractor or subcontractor
2 may—

3 (a) if the case was conducted initially by the Board
4 itself—within ninety days (not counting Sunday or a
5 legal holiday in the District of Columbia as the last
6 day) after the mailing under section 105 (a) of the
7 notice of such order, or

8 (b) if the case was not conducted initially by the
9 Board itself—within ninety days (not counting Sunday
10 or a legal holiday in the District of Columbia as the
11 last day) after the mailing under section 107 (e) of
12 the notice of the decision of the Board not to review
13 the case or the notice of the order of the Board determin-
14 ing the amount of excessive profits,

15 file a petition with The Tax Court of the United States
16 for a redetermination thereof. Upon such filing such court
17 shall have exclusive jurisdiction, by order, to finally deter-
18 mine the amount, if any, of such excessive profits received or
19 accrued by the contractor or subcontractor, and such de-
20 termination shall not be reviewed or redetermined by any
21 court or agency. The court may determine as the amount of
22 excessive profits an amount either less than, equal to, or
23 greater than that determined by the Board. A proceeding
24 before the Tax Court to finally determine the amount, if
25 any, of excessive profits shall not be treated as a proceeding

1 to review the determination of the Board, but shall be
2 treated as a proceeding de novo. For the purposes of this
3 section the court shall have the same powers and duties,
4 insofar as applicable in respect of the contractor, the sub-
5 contractor, the Board, and the Secretary, and in respect of
6 the attendance of witnesses and the production of papers,
7 notice of hearings, hearings before divisions, review by the
8 Tax Court of decisions of divisions, stenographic reporting,
9 and reports of proceedings, as such court has under sections
10 1110, 1111, 1113, 1114, 1115 (a), 1116, 1117 (a), 1118,
11 1120, and 1121 of the Internal Revenue Code in the case of
12 a proceeding to redetermine a deficiency. In the case of any
13 witness for the Board, the fees and mileage, and the expenses
14 of taking any deposition shall be paid out of appropriations
15 of the Board available for that purpose, and in the case of
16 any other witnesses shall be paid, subject to rules prescribed
17 by the court, by the party at whose instance the witness
18 appears or the deposition is taken. The filing of a petition
19 under this section shall operate to stay the execution of
20 the order of the Board under subsection (b) of section 105
21 if within ~~five~~ *ten* days after the filing of the petition the peti-
22 tioner files with the Tax Court a good and sufficient bond,
23 approved by such court, in such amount as may be fixed by
24 the court. Any amount collected by the United States under
25 an order of the Board in excess of the amount found to be

1 due under a determination of excessive profits by the Tax
2 Court shall be refunded to the contractor or subcontractor
3 with interest thereon at the rate of 6 4 per centum per an-
4 num from the date of collection by the United States to the
5 date of refund.

6 **SEC. 109. RULES AND REGULATIONS.**

7 The Board may make such rules, regulations, and
8 orders as it deems necessary or appropriate to carry out the
9 provisions of this title.

10 **SEC. 110. COMPLIANCE WITH REGULATIONS, ETC.**

11 No person shall be held liable for damages or
12 penalties for any act or failure to act resulting directly or
13 indirectly from his compliance with a rule, regulation, or
14 order issued pursuant to this title, notwithstanding that any
15 such rule, regulation, or order shall thereafter be declared by
16 judicial or other competent authority to be invalid.

17 **SEC. 111. APPLICATION OF ADMINISTRATIVE PROCEDURE**

18 **ACT.**

19 The functions exercised under this title shall be ex-
20 cluded from the operation of the Administrative Procedure
21 Act (60 Stat. 237) except as to the requirements of section
22 3 thereof.

23 **SEC. 112. APPROPRIATIONS.**

24 There are hereby authorized to be appropriated such
25 sums as may be necessary and appropriate for the carrying

1 out of the provisions and purposes of this title. Funds
 2 made available for the purposes of this title may be allocated
 3 or transferred for any of the purposes of this title, with the
 4 approval of the Bureau of the Budget to any agency of the
 5 Government designated to assist in carrying out this title.
 6 Funds so allocated or transferred shall remain available for
 7 such period as may be specified in the Acts making such
 8 funds available.

9 SEC. 113. PROSECUTION OF CLAIMS AGAINST UNITED
 10 STATES BY FORMER PERSONNEL.

11 Nothing in title 18, United States Code, sections 281
 12 and 283, or in section 190 of the Revised Statutes (~~U. S. C.,~~
 13 ~~title 5, sec. 99~~) shall be deemed to prevent any person by
 14 reason of service prior to January 1, 1954, in performance
 15 of duties or functions required by this Act, from acting as
 16 counsel, agent, or attorney for prosecuting any claim against
 17 the United States: *Provided*, That such person shall not
 18 prosecute any claim against the United States ~~(1)~~ involving
 19 any subject matter directly connected with which such person
 20 was so employed, or ~~(2)~~ during the period such person is
 21 engaged in employment in a department or the Board.

22 *Nothing in title 18, United States Code, sections 281*
 23 *and 283, or in section 190 of the Revised Statutes (U. S. C.,*
 24 *title 5, sec. 99) shall be deemed to prevent any person by*
 25 *reason of service in a Department or the Board during the*

1 *period (or a part thereof) beginning July 1, 1950, and*
2 *ending December 31, 1953, from acting as counsel, agent,*
3 *or attorney for prosecuting any claim against the United*
4 *States: Provided, That such person shall not prosecute any*
5 *claim against the United States (1) involving any subject*
6 *matter directly connected with which such person was so*
7 *employed, or (2) during the period such person is engaged*
8 *in employment in a Department or the Board.*

9 **TITLE II—MISCELLANEOUS PROVISIONS**

10 **SEC. 201. FUNCTIONS UNDER WORLD WAR II RENEGOTIA-** 11 **TION ACT.**

12 (a) **ABOLITION OF WAR CONTRACTS PRICE ADJUST-**
13 **MENT BOARD.**—The War Contracts Price Adjustment Board,
14 created by the Renegotiation Act, is hereby abolished.

15 (b) **TRANSFER OF FUNCTIONS IN GENERAL.**—All
16 powers, functions, and duties conferred upon the War Con-
17 tracts Price Adjustment Board by the Renegotiation Act
18 and not otherwise specifically dealt with in this section are
19 transferred to the Renegotiation Board.

20 (c) **AMENDMENT OF THE RENEGOTIATION ACT.**—Sub-
21 section (a) (4) (D) of the Renegotiation Act is amended
22 by inserting at the end thereof the following: “A net rene-
23 gotiation rebate shall not be repaid unless a claim there-
24 for has been filed with the Board on or before the date
25 of its abolition, or unless a claim shall have been

1 filed with the Administrator of General Services (i) on
2 or before June 30, 1951, or (ii) within ninety days
3 after the making of an agreement or the entry of an order
4 under subsection (c) (1) determining the amount of exces-
5 sive profits, whichever is later. A claim shall be deemed to
6 have been filed when received by the Board or the Adminis-
7 trator, whether or not accompanied by a statement of the
8 Commissioner of Internal Revenue showing the amortiza-
9 tion deduction allowed for the renegotiated year upon the re-
10 computation made pursuant to section 124 (d) of the In-
11 ternal Revenue Code.”

12 (d) TRANSFER OF CERTAIN FUNCTIONS.—All powers,
13 functions, and duties conferred upon the War Contracts
14 Price Adjustment Board by subsection (a) (4) (D) of
15 the Renegotiation Act, subject to the amendment there-
16 of by subsection (c) of this section, are hereby transferred
17 to the Administrator of General Services.

18 (e) FUNCTIONS AND RECORDS.—Each Secretary of a
19 Department is authorized and directed to eliminate the ex-
20 cessive profits determined under all existing renegotiation
21 agreements or orders by the methods enumerated in subsec-
22 tion (c) (2) of the Renegotiation Act in respect of all re-
23 negotiations conducted by his Department pursuant to dele-
24 gations from the War Contracts Price Adjustment Board.
25 The several Departments shall retain custody of the renego-

1 tiation case files covering renegotiations thus conducted for
2 such time as the Secretary deems necessary for the purposes
3 of this section, and thereafter they shall be made available
4 to the Renegotiation Board for appropriate disposition. The
5 renegotiation records of the War Contracts Price Adjustment
6 Board shall become records of the Renegotiation Board on
7 the effective date of this section.

8 (f) REFUNDS.—All refunds under subsection (a) (4)
9 (D) of the Renegotiation Act (relating to the recomputa-
10 tion of the amortization deduction), all refunds under the
11 last sentence of subsection (i) (3) of such Act (relating
12 to excess inventories), and all amounts finally adjudged or
13 determined to have been erroneously collected by the United
14 States pursuant to a determination of excessive profits, with
15 interest thereon in the last mentioned case at a rate not to
16 exceed 4 per centum per annum as may be determined by
17 the Administrator of General Services or his duly authorized
18 representative computed to the date of certification to the
19 Treasury Department for payment, shall be certified by the
20 Administrator of General Services or his duly authorized
21 representative to the Treasury Department for payment from
22 such appropriations as may be available therefor: *Provided*,
23 That such refunds shall be based solely on the certificate of
24 the Administrator of General Services or his duly authorized
25 representative.

1 (g) EXISTING POLICIES, PROCEDURES, ETC., TO RE-
2 MAIN IN EFFECT.—All policies, procedures, directives, and
3 delegations of authority prescribed or issued (1) by the War
4 Contracts Price Adjustment Board, or (2) by any Secretary
5 or other duly authorized officer of the Government, under
6 the authority of the Renegotiation Act, in effect upon the
7 effective date of this section and not inconsistent herewith,
8 shall remain in full force and effect unless and until super-
9 seded, or except as they may be amended, under the author-
10 ity of this section or any other appropriate authority. All
11 functions, powers, and responsibilities transferred by this sec-
12 tion shall be accompanied by the authority to issue appropri-
13 ate regulations and procedures, or to modify existing pro-
14 cedures, in respect of such powers, functions, and respon-
15 sibilities.

16 (h) SAVINGS PROVISION.—This section shall not be
17 construed (1) to prohibit disbursements authorized by the
18 War Contracts Price Adjustment Board and certified pursu-
19 ant to its authority prior to the effective date of this sec-
20 tion, (2) to affect the validity or finality of any agreement
21 or order made or issued pursuant to law by the War Con-
22 tracts Price Adjustment Board or pursuant to delegations of
23 authority from it, or (3) to prejudice or to abate any action
24 taken or any right accruing or accrued, or any suit or pro-
25 ceeding had or commenced in any civil cause; but any court

1 having on its docket a case to which the War Contracts
2 Price Adjustment Board is a party, on motion or supple-
3 mental petition filed at any time within twelve months after
4 the effective date of this section, showing a necessity for the
5 survival of such suit, action, or other proceeding to obtain
6 a determination of the questions involved, may allow the
7 same to be maintained by or against the United States.

8 (i) RENEGOTIATION ACT NOT REPEALED.—Except as
9 by this Act specifically amended or modified, all provisions of
10 the Renegotiation Act shall remain in full force and effect.

11 (j) DEFINITIONS.—The terms which are defined in the
12 Renegotiation Act shall, when used in this section, have the
13 same meaning as when used in the Renegotiation Act, except
14 that where a renegotiation function has been transferred by
15 or pursuant to law the terms “Secretary” or “Secretaries”
16 and “Department” or “Departments” shall be understood to
17 refer to the successors in function to those officers or offices
18 specifically named in the Renegotiation Act.

19 (k) EFFECTIVE DATE OF SECTION.—This section shall
20 take effect sixty days after the date of the enactment of this
21 Act.

22 **SEC. 202. PERIOD OF LIMITATIONS FOR RENEGOTIATION**
23 **ACT OF 1948.**

24 No proceeding under the Renegotiation Act of 1948
25 to determine the amount of excessive profits for any fiscal

1 year shall be commenced more than one year after the
2 mandatory statement required by the regulations issued
3 pursuant to such Act is filed with respect to such year,
4 or more than six months after the date of the enactment of
5 this title, whichever is the later, and if such proceeding is
6 not so commenced (in the manner provided by the regula-
7 tions prescribed pursuant to such Act), all liabilities of the
8 contractor or subcontractor under such Act for excessive
9 profits received or accrued during such fiscal year shall
10 thereupon be discharged. If an agreement or order deter-
11 mining the amount of excessive profits under such Act is
12 not made within two years following the commencement
13 of the renegotiation proceeding, then upon the expiration
14 of such two years all liabilities of the contractor or sub-
15 contractor for excessive profits with respect to which such
16 proceeding was commenced shall thereupon be discharged,
17 except that (1) such two-year period may be extended
18 by mutual agreement, and (2) if within such two years
19 such an order is duly issued pursuant to such Act, such
20 two-year limitation shall not apply to the review of such
21 order by any renegotiation board duly authorized to under-
22 take such review.

1 SEC. 203. AMENDMENT OF SECTION 3806 OF THE INTER-
2 NAL REVENUE CODE.

3 Section 3806 (a) (1) of the Internal Revenue Code
4 is hereby amended by striking out subparagraphs (A),
5 (B), and (C) and inserting in lieu thereof the following:

6 “(A) The term ‘renegotiation’ includes any
7 transaction which is a renegotiation within the
8 meaning of the Federal renegotiation act applicable
9 to such transaction, any modification of one or more
10 contracts with the United States or any agency
11 thereof, and any agreement with the United States
12 or any agency thereof in respect of one or more
13 such contracts or subcontracts thereunder.

14 “(B) The term ‘excessive profits’ includes any
15 amount which constitutes excessive profits within
16 the meaning assigned to such term by the applicable
17 Federal renegotiation act, any part of the contract
18 price of a contract with the United States or any
19 agency thereof, any part of the subcontract price
20 of a subcontract under such a contract, and any
21 profits derived from one or more such contracts or
22 subcontracts.

1 “(C) The term ‘subcontract’ includes any pur-
2 chase order or agreement which is a subcontract
3 within the meaning assigned to such term by the
4 applicable Federal renegotiation act.

5 “(D) The term ‘Federal renegotiation act’
6 includes section 403 of the Sixth Supplemental
7 National Defense Appropriation Act (Public 528,
8 77th Cong., 2d Sess.), as amended or supplemented,
9 the Renegotiation Act of 1948, as amended or
10 supplemented, and the Renegotiation Act of 1951,
11 as amended or supplemented.”

12 **SEC. 204. SEPARABILITY PROVISION.**

13 If any provision of this Act or the application of any
14 provision to any person or circumstance is held invalid,
15 the validity of the remainder of the Act and of the applica-
16 tion of its provisions to other persons and circumstances
17 shall not be affected thereby.

 Passed the House of Representatives January 23, 1951.

Attest:

RALPH R. ROBERTS,

Clerk.

Calendar No. 89

82ND CONGRESS
1ST SESSION

H. R. 1724

[Report No. 92]

AN ACT

To provide for the renegotiation of contracts,
and for other purposes.

JANUARY 25 (legislative day, JANUARY 8), 1951

Read twice and referred to the Committee on Finance

FEBRUARY 14, 1951

Reported with amendments



Mr. GEORGE. Mr. President, this is existing law. The bill merely extends the privilege to our soldiers abroad for a period of 2 years. It was unanimously reported by the Senate Finance Committee, and I believe there is no objection to it.

Mr. HENDRICKSON. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. HENDRICKSON. Is not this the same provision which we had all through World War II?

Mr. GEORGE. Exactly. This is a mere extension for 2 years.

Mr. HENDRICKSON. I thank the Senator. I have no objection.

The VICE PRESIDENT. The question is on the third reading and passage of the bill.

The bill (H. R. 2141) was ordered to a third reading, read the third time, and passed.

EXAMINATION OF RECORDS AND OBTAINING OF DOCUMENTS BY JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

Mr. GEORGE. Mr. President, I ask unanimous consent for the present consideration of House Joint Resolution 87, which is a noncontroversial measure.

The VICE PRESIDENT. The joint resolution will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A joint resolution (H. J. Res. 87) amending section 5012 of the Internal Revenue Code.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. GEORGE. Mr. President, I shall make a brief statement in connection with the joint resolution. All the joint resolution does is to give to the Joint Committee on Internal Revenue Taxation the privilege of examining records and obtaining documents from the office of the Commissioner of Internal Revenue, the same privilege which the Joint Committee on Internal Revenue Taxation had prior to the Congressional Reorganization Act. That act casts some doubt upon the right of the joint committee to obtain necessary documents and information from the office of the Commissioner of Internal Revenue. This joint resolution was referred to the Senate Committee on Finance, and was unanimously recommended. I ask for its approval.

The VICE PRESIDENT. The question is on the third reading and passage of the joint resolution.

The joint resolution (H. J. Res. 87) was ordered to a third reading, read the third time, and passed.

INDEMNITY PAYMENTS TO SURVIVORS OF MEMBERS OF THE ARMED FORCES WHO DIE IN ACTIVE SERVICE

Mr. GEORGE. Mr. President, I had intended to call up House bill 1, to authorize the payment by the Administrator of Veterans' Affairs of a gratuitous indemnity to survivors of members of the Armed Forces who died in active service, and for other purposes, but cer-

tain amendments have been sent to the desk which are proposed to be offered, and I believe it will be necessary for the bill to go over. In no event, I think, could we dispose of it today.

If there are other amendments to be submitted to House bill 1, I hope Senators will avail themselves of the opportunity to have the amendments printed so that we have them before us on Monday.

Mr. LANGER. Mr. President, I send to the desk two amendments to House bill 1, and ask unanimous consent that they may be printed and lie on the table.

The VICE PRESIDENT. The amendments will be received, printed, and lie on the table.

Mr. LEHMAN. Mr. President, on behalf of myself, and the Senators from West Virginia [Mr. KILGORE and Mr. NEELY], I send to the desk two amendments to House bill 1.

The VICE PRESIDENT. The amendments will be received, printed, and lie on the table.

Mr. GEORGE. In view of the amendments offered by the distinguished Senator from New York [Mr. LEHMAN] which I have not yet had an opportunity to examine, as well as the amendments offered just now by the distinguished Senator from North Dakota [Mr. LANGER] which I presume inject certain controversial features into the bill, I think it would be wise not to call up the bill now, but rather to have it go over until Monday or such other time as we may be able to obtain consideration of it.

Mr. LANGER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. LANGER. I shall be very glad to send copies of my amendments to the office of the Senator from Georgia.

Mr. LEHMAN. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. LEHMAN. I thank the Senator from Georgia for his consideration in suggesting that the bill be put over until Monday or some other time when the matters in controversy can be carefully considered and acted upon.

Mr. GEORGE. I thank the Senator. I shall be pleased to have the bill go over.

The VICE PRESIDENT. Is there any other business to come before the Senate?

RENEGOTIATION ACT OF 1951

Mr. GEORGE. Mr. President, the only other matter from the Finance Committee which, under a rather tentative understanding with the majority leader I might seek to call up today, is the Renegotiation Act of 1951, House bill 1724. I should like to have that bill made the unfinished business. I do not believe it can be disposed of today in view of the absence of a quorum from the Senate.

The VICE PRESIDENT. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes.

The VICE PRESIDENT. The Senator from Georgia asks unanimous consent that the Senate proceed to consid-

eration of the bill (H. R. 1724) and thereby make it the unfinished business. Is there objection?

There being no objection, the Senate proceeded to consider the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes, which had been reported from the Committee on Finance with amendments.

Mr. GEORGE. Mr. President, I think the Senate would be wise to permit this bill to go over until Monday. It is a very important bill. It ought to be acted upon, and no doubt we can act upon it Monday, unless the majority leader should have some other more pressing business that he desires the Senate to consider first. In that event, I would be glad to have the unfinished business temporarily laid aside.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. TAFT. Does the Senator intend to follow action on H. R. 1724 with House bill 1?

Mr. GEORGE. I have already mentioned that bill. I have not asked that it be taken up, but I expect to bring it up on Monday.

Mr. TAFT. After action has been had on the bill to provide for renegotiation of contracts?

Mr. GEORGE. Yes. I have asked Senators to offer any amendments to the bill they may have in mind to offer. Certain amendments have been offered by two Senators, the Senator from New York [Mr. LEHMAN] and the Senator from North Dakota [Mr. LANGER]. Those amendments result in certain controversial features in connection with H. R. 1, so I do not think we can dispose of the bill in the absence of a quorum of the Senate.

RECESS TO MONDAY

Mr. JOHNSON of Texas. I move that the Senate stand in recess until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 12 o'clock and 25 minutes p. m.) the Senate took a recess until Monday, February 19, 1951, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 15 (legislative day of January 29), 1951:

DEPARTMENT OF COMMERCE

C. Dickerman Williams, of New York, to the position of Solicitor, Department of Commerce.

UNITED STATES ATTORNEY

Donald C. Miller, of Ohio, to be United States attorney for the northern district of Ohio. He is now serving in this office under an appointment which expired March 20, 1950.

UNITED STATES PUBLIC HEALTH SERVICE

The following-named candidates for appointment in the Regular Corps of the Public Health Service:

To be senior surgeon (equivalent to the Army rank of lieutenant colonel), effective date of acceptance

Emil E. Palmquist

To be surgeon (equivalent to the Army rank of major), effective date of acceptance

Manly B. Root

To be senior assistant surgeons (equivalent to the Army rank of captain), effective date of acceptance

James W. Phipps
Leo R. Melcher
Robert J. Sillery

To be assistant surgeon (equivalent to the Army rank of first lieutenant), effective date of acceptance

Harold M. Silver

To be senior assistant dental surgeon (equivalent to the Army rank of captain), effective date of acceptance

Irvin F. Buck

To be pharmacist (equivalent to the Army rank of major), effective date of acceptance

Arthur W. Dodds

To be sanitary engineer (equivalent to the Army rank of major), effective date of acceptance

Frederick F. Aldridge

To be junior assistant sanitary engineer (equivalent to the Army rank of second lieutenant), effective date of acceptance

Morton I. Goldman

To be senior assistant veterinarian (equivalent to the Army rank of captain), effective date of acceptance

Harry Rubin

POSTMASTERS

The following-named persons to be postmasters:

ALABAMA

James R. Solomon, Abbeville, Ala., in place of Bryan Whitehurst, retired.
Clyde D. Watson, Clayton, Ala., in place of N. M. Wallace, retired.
Buford L. Hughes, Cottonwood, Ala., in place of G. D. Ward, removed.
Esther M. Sims, Delta, Ala., in place of O. P. Braswell, transferred.
James W. Cyphers, Foley, Ala., in place of C. A. Boller, retired.
Sister Mary Basil, Holy Trinity, Ala., in place of Sister Mary Teresa, retired.
Katherine T. Perry, Lockhart, Ala., in place of R. K. Bullard, deceased.
Roy M. Williams, Midland City, Ala., in place of A. O. York, retired.
Helen T. Humphreys, Montrose, Ala., in place of E. T. Fell, retired.
James E. Channell, Odenville, Ala., in place of B. M. Forman, retired.
John R. Hinton, Prattville, Ala., in place of L. D. McCrary, retired.
Lucy A. Robinson, Waverly, Ala., in place of J. B. Robinson, Jr., resigned.

ALASKA

Arlene A. Webster, Platinum, Alaska, in place of M. F. Harwood, resigned.

ARKANSAS

William S. Huggins, Bauxite, Ark., in place of N. L. Connevey, retired.
Earl H. Neely, Jr., Benton, Ark., in place of C. F. Elza, retired.
Elmer R. Gatten, Colt, Ark., in place of C. N. Wood, resigned.
Eunice M. Harvey, Huntington, Ark., in place of M. N. Old, retired.
Jack H. Griffin, Lake City, Ark., in place of H. T. Griffin, retired.
Pierce A. Reeder, Leola, Ark., in place of I. S. Matlock, resigned.
Sam C. Ingram, Luxora, Ark., in place of S. M. Brown, retired.
William H. Bridgeman, Mineral Springs, Ark., in place of E. K. Calhoun, retired.
James B. Hill, Nashville, Ark., in place of R. R. Millwee, retired.
Marvin H. Massey, Palestine, Ark., in place of D. A. Massey, deceased.

CALIFORNIA

Meryl G. Adams, Acton, Calif., in place of P. K. Ihrig, removed.

Margaret I. Higgins, El Granada, Calif. Office established November 16, 1947.

Nelson F. Smith, Petaluma, Calif., in place of Frederick Martin, retired.

Kenneth R. Rudisill, Tulalake, Calif., in place of W. L. Stark, deceased.

COLORADO

Ralph J. McDonald, Berthoud, Colo., in place of W. E. Rogers, retired.

Matthew Martinez, Milliken, Colo., in place of E. P. Winkler, resigned.

FLORIDA

Frank L. Burgust, Apopka, Fla., in place of M. H. Vick, resigned.

O. B. Fowler, Citra, Fla., in place of L. K. Stewart, transferred.

William P. Baker, Hawthorne, Fla., in place of L. A. Sherouse, deceased.

Howard S. Warner, Orange City, Fla., in place of H. A. Richey, retired.

Mark H. Shaw, Palatka, Fla., in place of J. A. Shelley, retired.

Marian J. Davis, Wabasso, Fla., in place of K. P. Harris, resigned.

Edgar M. Henderson, Winter Garden, Fla., in place of W. H. Reams, retired.

GEORGIA

Julian R. Grimsley, Adel, Ga., in place of L. J. Flowers, transferred.

Frank T. Paulk, Alapaha, Ga., in place of Blanche Chambliss, removed.

Charles W. Conley, Blairsville, Ga., in place of T. C. Conley, transferred.

Mary Sue Hampton, Clarkston, Ga., in place of E. R. Culpepper, retired.

Marion H. Reynolds, Clermont, Ga., in place of W. C. Haynes, removed.

Walter P. Hughes, Cumming, Ga., in place of K. A. Kemp, retired.

Charles H. Phillips, Dahlonega, Ga., in place of J. R. Jones, transferred.

Lanier R. Billups, Decatur, Ga., in place of Wylie West, retired.

Cephas S. Spruill, Dunwoody, Ga., in place of Ethel Nash, retired.

Robert C. Stembbridge, Ellijay, Ga., in place of F. C. Wingate, resigned.

Huram R. Hancock, Gainesville, Ga., in place of J. F. Carter, retired.

Marion A. Burns, Hiawasse, Ga., in place of J. C. Puett, transferred.

James M. Stallings, Jr., Lithonia, Ga., in place of A. H. Flake, deceased.

Marjorie T. McCay, McCaysville, Ga., in place of C. J. Collis, resigned.

Guy H. Toles, Jr., Menlo, Ga., in place of J. W. Murphy, retired.

Ruth H. Grippio, Oglethorpe University, Ga., in place of M. A. Weltner, resigned.

Frank G. Owen, Stockbridge, Ga., in place of Fred Grant, transferred.

Robert A. Timmons, West Point, Ga., in place of F. K. Mize, resigned.

ILLINOIS

Gerald C. Hardiek, Dieterich, Ill., in place of Leland Adams, transferred.

Oliver W. Ator, Jr., Griggsville, Ill., in place of F. C. Hall, deceased.

Joy A. Mitchell, Noble, Ill., in place of Webster Hanna, retired.

Jerry H. Elliston, Waltonville, Ill., in place of M. E. Patterson, retired.

INDIANA

Olive C. Mohr, Flat Rock, Ind., in place of Woodbury Mohr, deceased.

Loren R. Buse, Poneto, Ind., in place of D. E. Ulmer, transferred.

Howard E. Dike, St. John, Ind., in place of S. M. Boecker, resigned.

IOWA

Wallace W. Koestner, Centerville, Iowa, in place of J. B. Taylor, retired.

Thomas G. Clifford, Charlotte, Iowa, in place of A. J. Hanrahan, deceased.

Vertie DeVerne Luger, Derby, Iowa, in place of L. W. Luger, deceased.

George L. Johnson, Emerson, Iowa, in place of I. B. Stokes, retired.

Roger E. Klay, Hull, Iowa, in place of Timon Roetman, transferred.

Richard D. Claus, Plymouth, Iowa, in place of Anna Bliem, retired.

KANSAS

Willard Eugene Foos, Healy, Kans., in place of Dale Graves, transferred.

LOUISIANA

Mamie W. Higginbotham, Delhi, La., in place of W. A. Dearman, designed.

Austin B. Smith, Rayville, La., in place of A. L. Page, transferred.

Nellie M. Whittington, St. Landry, La., in place of L. T. Tubre, retired.

Raymond J. Jole, Weeks, La., in place of A. B. Darnall, resigned.

Simeon P. Cartier, Westwego, La., in place of E. J. Pierce, resigned.

MAINE

Orman M. Fortier, Guilford, Maine, in place of E. E. Ross, retired.

MARYLAND

Hubert Glen Caple, Cedarhurst, Md., in place of S. B. Caple, resigned.

James F. Burke, Taneytown, Md., in place of J. O. Crapster, deceased.

Francis M. Pickett, Woodbine, Md., in place of B. F. Dorsey, retired.

MASSACHUSETTS

Raphael F. McKeown, North Abington, Mass., in place of O. W. Gallagher, deceased.

MICHIGAN

Frank C. Middel, Detroit, Mich., in place of R. B. Huston, deceased.

Carl Knepp, Fairview, Mich., in place of E. L. Bailey, resigned.

John C. Lane, Galesburg, Mich., in place of R. G. Southworth, deceased.

William J. Johnson, Leland, Mich., in place of J. E. Lederle, retired.

MINNESOTA

Arthur J. Breen, Bemidji, Minn., in place of Thomas Hughes, retired.

John H. Sparrow, Ortonville, Minn., in place of J. C. Gowan, transferred.

Donald E. Cummings, Spring Valley, Minn., in place of Roy Viall, retired.

William H. Schaefer, Warren, Minn., in place of E. A. Swenson, resigned.

MISSISSIPPI

Nathan A. Riley, Dorsey, Miss., in place of F. G. Martin, retired.

Earl M. Whitehead, Roxie, Miss., in place of M. C. Flowers, retired.

MISSOURI

Clarence E. Whitton, Downing, Mo., in place of W. S. Smoot, deceased.

Edward D. Clay, South Kinloch Park, Mo., in place of B. E. Rainey, deceased.

NEW YORK

Emanuel W. Kuna, Hartsdale, N. Y., in place of R. M. Rooney, resigned.

Frederick B. Bertrand, Hempstead, N. Y., in place of T. J. Hartnett, deceased.

Francis J. Mahoney, Highland Falls, N. Y., in place of J. H. Wilson, retired.

Lawrence J. Ewart, Ogdensburg, N. Y., in place of A. J. Belgard, retired.

James L. Dam, Vernon, N. Y., in place of Anna Marriott, retired.

NORTH CAROLINA

Edward Russell Johnston, Belhaven, N. C., in place of J. A. Leigh, deceased.

Walter Wellington White, Hertford, N. C., in place of S. M. Whedbee, resigned.

James H. Mullinax, Pomona, N. C., in place of M. J. Bell, deceased.

NORTH DAKOTA

Ralph F. Covert, Calvin, N. Dak., in place of H. R. McKechnie, deceased.

Nettie E. Bruning, Solen, N. Dak., in place of B. G. J. Schimansky, Sr., retired.

OHIO

William T. Felske, Castalia, Ohio, in place of M. E. Perry, resigned.

some uses for wood decline, new uses are continually being found for it.

The timber products industries are an important element in the support of many communities, both large and small. The Nation needs ample, dependable timber supplies to sustain and expand the supply of consumer goods and the industry and employment that are based on wood. Furthermore, as dramatically demonstrated by World War II, an ample timber supply is a vital aspect of national security. Beyond these considerations is the world shortage of softwood timber. If our large potential forest resources are developed properly, this country can, without depriving our own population, help to meet world timber needs in years to come, and so contribute to international well-being.

Of only slightly lesser importance is the increasing demand for pulpwood. Over the past 40 years, pulpwood consumption has been expanding rapidly. Consumption of paper and paperboard may well reach 30,000,000 tons in the next decade, without counting any increases that may result from the Korean campaign.

To supply its expanding needs for wood, our country must adopt scientific forest management to an extent as never before. Forestry is not a new science. Scientific forest management existed already in France and Germany at the beginning of the eighteenth century, and crude prescriptions as to the proper use of forests even date back to the fourteenth century. In Germany, the first courses for education in forestry were organized between 1770 and 1780 at the Universities of Liepzig, Jena, Giessen, and Berlin. In France, the first forest institute was opened in 1824 at Nancy.

In America, we have come a long way, in point of time, in forest conservation, but we have not progressed far enough. When the white man first began to settle this country, the timber stand amounted to at least 8,000,000,000 board feet. This enormous volume was very largely in virgin timber, centuries old. We now have about 1,600,000,000 board feet, only about half of which is virgin timber. In the course of 300 years, and chiefly during the last century, we have used or destroyed most of our original timber heritage plus much of what has grown in the meantime. The time is long past when timber could be regarded as an inexhaustible reserve, to be drawn on without regard for its replacement. It must now be regarded as a crop, much as the cotton and sugar cane and corn that we see about us in the South.

The South has been the victim of some of the worst ravagers of our forest-lands. I have seen the devastated areas with my own eyes. Thousands of acres of virgin timber have been completely denuded, leaving behind only black, charred stumps as a reminder of the wealth that used to be.

Forestry is a long time undertaking. While the country's annual cut may vary somewhat with the play of economic forces, the annual rate of growth is unchanging, relatively speaking, from one year to the next. Once the forest resources of America have deteriorated, as they have already done, it requires years of effort and additional investments to increase substantially the volume of cut that can be sustained. It is therefore important to set up long-range goals or objectives of forest growth as a basis for sound public policy and action. The Forest Service believes that we should aim at a growth of 18 to 20,000,000,000 cubic feet of lumber annually, which should produce 65 to 72,000,000,000 board feet of saw timber of good species and quality.

There is no question but that the Government can and in many cases does, perform valuable and necessary services to the forest landowners and forest products operators. Their sensible and restrained continuance

can mean better forestry practices and more productive forests in the United States, more prosperous business for you, and an advancement of our Nation's general welfare.

Your Representatives who attended the many House and Senate hearings will tell you that we should be proud of the results we obtained in forestry legislation during the Eighty-first Congress. They will tell you that it was not at all easy, that there were many hearings and very many difficulties encountered before we could claim success. In fact, in 1949 we failed to obtain one of the four of our objectives for forestry legislation. Because of the confusion and difficulties encountered it was determined wise to accept only three of these objectives, namely, protection, planting, and education, and to wait until the following year, 1950, to obtain assistance in technical services. As a result of your efforts and those of some Senators and some members of the House, we now have what I believe is suitable legislation so that we can go ahead with vision to develop our private forest resources. I say we have at present satisfactory forestry laws but with full knowledge that more than legislation is needed. Congress must appropriate the money necessary for those cooperative endeavors. Also, the States and the private landowners must do their part. I believe you can count on all three—the Congress, the States, and the private landowners to prove that we were right in choosing the cooperative approach.

Now, what about the future of private enterprise in forestry? That is, indeed, a good question. Even in normal times, predicting future events is a little out of my line. And with the threat of war facing us, and an expanding economy geared for possible world conflict, the task of guessing the shifting winds of congressional intent becomes even more difficult. The international situation will surely continue to affect your business. You will have less help, fewer machines, perhaps eventually less money for forestry and conservation activities. Wood will become less plentiful, and saw timber will become hard to harvest and expensive to process. But it will be easy to sell; make no mistake about that.

Senator ANDERSON, of New Mexico, who expressed his regret to me that he was not able to be with us here today, introduced a bill in the Eighty-first Congress that I believe of extreme importance to the forest industry and in particular to our conference today on private enterprise in forestry. It represents, I might say, a viewpoint far removed from what I assume to be that held by most of you.

The title of the Anderson bill is: "A bill to provide for the establishment of forest practices for the conservation of and proper use of privately owned forest lands, and for other purposes." Insofar as I am concerned, the title sets the stage for the details that follow. The bill declares it to be the policy of the Congress to establish forestry practices on privately owned lands. With one sweeping program, it removes from private owners the administration of their forest lands, interposing instead the Federal Government.

I believe this bill may represent the shape of things to come, unless we remain constantly on guard to combat it, and unless we seek to cure the evils that give rise to such a method of procedure for maintaining our forests. Over the past decade or more, our Nation has moved toward, not away from, increased Government control. Some of this regulation has been on the whole beneficial to our country. I cannot subscribe to the idea that any measure of benefit to the people as a whole is per se evil and socialistic, but I am convinced that the trend is present, and that we have been allowing more and more of our daily lives to be regulated by Government edict rather than by the ebb

and flow of free enterprise. No better example to me can be found than the recent controversy over the tidelands, those littoral areas off our coasts containing oil and other minerals. If the tidelands discussion had come up 25 years ago, the States would have unquestionably prevailed and remained in possession of what I still rightfully believe to be theirs.

And if you remember, one of the arguments for Federal ownership and control of the tidelands was that because petroleum is usually in interstate commerce and is always essential for the national defense, therefore the Federal Government should have control over offshore petroleum resources. Likewise, the advocates of Federal control fought, and through a Presidential veto succeeded in killing, the Kerr natural-gas bill, which would have insured continued control of our natural-gas resources by the States.

It is high time, ladies and gentlemen, that something drastic is done to arrest the inroads of bureaucratic control. As I intimated a few moments ago, with a national emergency confronting our country, centralization of power in the National Government will continue to expand. We, every one of us, must fight against it. The tendency of an apprehensive people, fearful of war, is to reply upon a strong centralized Government, with the end result that our States' rights, and our people's rights, will wither away, or be chipped off, piece by piece, by the proponent of bureaucracy.

I feel that in time of national stress the Government must direct our Nation's efforts, but what I must caution you against is the insidious creeping of bureaucracy into our daily lives. And once it is in, under the guise of national emergency, or any other reason, it is here to stay, if I may judge by our past history.

The arguments of the advocates of regulation by government order, or whatever you want to call it, are cogent indeed. The planners have big dreams. The big dreams are beautiful on paper. It is usually only after they are here, and often here to stay, that we realize how insidious they are, how stifling for our system of free enterprise, our basic freedoms, even of our fundamental democratic form of government. These are reasons why I am opposed to it. The lure of big government has appeal for the people who think that they are going to get something for nothing. It is usually too late when they realize that instead of getting something for nothing, they have paid, and paid with some of the dearest things America still possesses, paid with "liberty and freedom."

I do not believe that there is any immediate danger of socialization of forestry industries, even to the extent provided by the Anderson bill, for shortly before coming down here I spoke with Senator ANDERSON's office and was told that he did not intend to reintroduce the bill—in the first session at least—of the Eighty-second Congress. I am not an alarmist, I hope, but if I serve no other purpose here than to awaken you to the dangers creeping up on private enterprise in forestry, then I shall feel that my time and yours was not wasted this evening.

The best way to combat the encroachment of government control into your business is for you, yourselves, to accomplish the objectives that the bureaucrats would achieve by public control of private forestry. Let me urge you, therefore, to set about putting your house in order. If you can do the job, you can present the best, the most solid, the most irrefutable argument to those who would sell free enterprise down the river. By doing the job, I mean putting into practice the measures that will conserve and expand our forest resources. If the Government can do it, then private enterprise can do it better. What is more, the Govern-

ment, under present laws, will help you do it, and will help the States to help you do it.

And what should be done now? You must put into effect sound replanting practices, intelligent selective cutting programs, watershed management surveys and plans, fire control systems, flood-control facilities through reforestation, and in general halt the decline in our national timber stand. These and many more things are what you can do to forestall the encroachment of government control over your business. Those of you gathered here tonight cannot do it alone, but your organization and organizations similar to yours can be a prime factor in keeping the "free" in free enterprise forestry. Much improvement in forestry conservation is needed in the South, and from what I have learned, your group and other leaders in southern forestry have taken giant steps in the right direction. But, I repeat, much remains to be done. I promise that I shall work as hard as I am able, as a Senator and as chairman of the Senate Committee on Agriculture and Forestry, to keep private enterprise the motivating power in American forestry. I feel, as I begin my fifteenth year in the Senate, that under our present forestry laws our Government can help you with the task of keeping forestry healthy and profitable, but I feel just as strongly that there should be no strings on the help and assistance, and that aid and technical know-how from our Federal government should encourage rather than discourage private enterprise. A government, or an industry, or a people, that comes to depend upon the crutch of a paternalistic power, is sick. If we are to survive in a free world—if we are to preserve our cherished way of life—we, you and I, and all Americans, must unite in our efforts to keep American private enterprise healthy and strong both for now and for unborn generations.

NOMINATION OF JOHN C. WILLIAMS

Mr. JOHNSTON of South Carolina. Mr. President, I think there is at the desk the favorable report of the Judiciary Committee on the nomination of John C. Williams, of South Carolina, to be United States attorney for the western district of South Carolina. I should like to have the Senate act on the nomination at this time because of the fact that court is held in that district beginning one day this week, and the present district attorney is disabled and has resigned and is out of office.

Therefore, I ask unanimous consent for the present consideration of the nomination by the Senate, as in executive session.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. WILLIAMS. Has the nomination received the unanimous approval of the committee?

Mr. JOHNSTON of South Carolina. Yes; it is unanimously approved by the Judiciary Committee. I request action on the nomination at this time simply in order to expedite the handling of the business of the court in South Carolina.

The VICE PRESIDENT. Is there objection to the present consideration of the nomination, as in executive session?

There being no objection, as in executive session, the nomination was considered and confirmed.

The VICE PRESIDENT. Without objection, the President will be immediately notified of the confirmation of the nomination.

RENEGOTIATION ACT OF 1951

The Senate resumed the consideration of the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes.

Mr. GEORGE obtained the floor.

The VICE PRESIDENT. Unless the Senator from Georgia wishes to address the Senate at this time, the first amendment of the committee will be read.

Mr. GEORGE. Mr. President, I should like to make a preliminary statement which I think may shorten the consideration of the bill.

This bill is intended to prevent exorbitant and unconscionable costs from being charged to the Government in the case of materials, supplies, or equipment purchased for the national defense. Enactment of the bill at this time is deemed necessary because the country has again embarked upon a vast program of military expenditures. In many cases contractors will be asked to deliver materials, supplies, or equipment for the defense program without being given sufficient time to prepare adequate cost estimates. Some items called for will be different from those ordinarily produced in the manufacturing plant of the contractor or subcontractor. Other items may be entirely new, with no cost history. Because the Government will purchase materials, supplies, and equipment in large quantities, the prevailing market price of a great many of the items in question, even if known, will still be an inadequate measure of a fair price.

I cannot emphasize too strongly, Mr. President, that the power given to administrative officials under this bill to renegotiate realized profits on these contracts or related subcontracts amounts almost to a delegation to administrative officials of the power to tax, which, in my opinion, would have no justification except in time of war or of a national emergency. Perhaps it is well to bear in mind that Mr. Maurice Karker, first Chairman of the War Department Price Adjustment Board during World War II, called the World War II statute imposing such a power "a dangerous and un-American statute."

While the World War II Renegotiation Act was upheld by the Supreme Court, the Court was careful to point out that—the very finality of the administrative determinations here upheld emphasize the seriousness of the injustices which can result from the abuse of the large powers vested in the administrative officials.

In testimony before the Finance Committee it developed that renegotiation may have some defects which could become serious if the act is not clearly, impartially, intelligently, and equitably administered. It is, therefore, highly important that men with knowledge, vision, and practical business accounting and professional experience be selected to carry out the functions of this bill.

Because renegotiation will amount to the equivalent of a tax of 100 percent on profits determined by the administrator to be excessive, it may have a serious effect upon incentives to produce efficiently unless full and adequate allowance is made for efficient use of facilities, materials, and manpower. The renegotiation process must be simple and not cumbersome

some or time consuming, lest it interfere seriously with the work of producing the materials, equipment, and supplies necessary for the national defense. This last problem becomes much more serious if renegotiation is extended to too low a level. If the small contractor or subcontractor is required to spend a great deal of time in discussing renegotiation problems, instead of carrying on production, the Government's stockpile of materials, supplies, and equipment is bound to suffer. It is for this reason that I believe the renegotiation power should be surrounded by a great many safeguards. I hope that when sufficient procurement experience has been gained in the pricing of defense items, it will be possible to restrict to a minimum the renegotiation function.

The bill gives the Renegotiation Board discretionary authority to exempt from renegotiation any contract or subcontract where, in the opinion of the Board, the provisions of the contract or subcontract are otherwise adequate to prevent excessive profits. I believe that the Board should not hesitate to use this power. In the final analysis, it is largely through careful and proper procurement that firm and reasonable prices can be established.

The House bill has surrounded the renegotiation procedure with certain safeguards and the finance committee bill has provided still further safeguards in an effort to prevent arbitrary and unreasonable determinations. In arriving at excessive profits under the bill, no recognition is given to the fact that a substantial part of the excessive profits will be captured through the Federal income tax, and the excess-profits tax which has been recently adopted. I, for one, would like to see excessive profits arrived at after taking into account the payment of Federal income and excess-profits taxes. However, it was not possible under this bill to prepare a satisfactory amendment to accomplish that purpose. And the services insist that renegotiation after Federal income and excess-profits taxes will materially increase Government costs in securing materials for defense purposes.

I shall now discuss briefly the important features of the committee bill, distinguishing the changes made by the Finance Committee from the provisions of the House bill.

This act will be administered by an independent establishment in the executive branch of the Government composed of five members, appointed by and with the advice and consent of the Senate, which shall be known as the Renegotiation Board. The chairman of the Board is to be appointed by the President and receive compensation in the amount of \$17,500 per annum. The other four members are to be appointed one each by the respective Secretaries of the Army, the Navy, and the Air Force, subject to the approval of the Secretary of Defense, and one by the Administrator of General Services. These four members shall receive compensation at the rate of \$15,000 per annum.

This differs from the House bill which provides for all five members to be appointed by the President with the ad-

vice and consent of the Senate, and for compensation of \$12,500 a year each.

Under the House bill, a contractor or subcontractor may be renegotiated where he has received or accrued, within the fiscal year, more than \$100,000 in the aggregate from renegotiable contracts and subcontracts. The Senate Finance Committee raised this renegotiable minimum limitation from \$100,000 to \$500,000. During World War II, the minimum amount was also originally set at \$100,000, but was later increased to \$500,000. I recall that at that time both the Truman committee and the services recommended that the \$100,000 limit be increased to \$500,000.

Mr. LANGER. Mr. President, I was unable to hear the statement just made by the Senator from Georgia. If he will yield for a question, did he say a moment ago that the Truman committee set a limit of \$500,000?

Mr. GEORGE. Yes. That is not on one contract, though, let me say. It is for all contracts obtained by the contractor within a fiscal year. If they aggregate less than \$500,000, they are not renegotiable.

Mr. LANGER. I thank the Senator.

Mr. GEORGE. During consideration of the World War II legislation, it was shown that while the work load with a \$100,000 limit would be approximately five times greater than the work load with a \$500,000 limit, the additional recoveries from the lower \$100,000 limit would still be small. This is also true today. Furthermore, a low limit of \$100,000 will prevent the negotiators from concentrating on the larger cases involving a greater amount of dollars. The higher limit of \$500,000 will permit the small-business man with defense contracts or related subcontracts to spend his time more effectively in the production of defense materials. Of course, any excessive profits which may arise from the aggregate receipts and accruals of less than \$500,000 received by the contractor or subcontractor during the fiscal year will not be large in any event and will also be substantially reduced through the excess-profits taxes and income taxes.

Another important change was made by the committee with respect to the agricultural exemption provided for in the House bill. Under the House bill, and the Senate Finance Committee amendment, an exemption is granted for an agricultural commodity in its raw or natural state. If the agricultural commodity is not customarily sold or does not have an established market in such state, then the exemption applies in the first form or state in which it is customarily sold or has an established market. The term "agricultural product" is broad enough to include not only products resulting from the cultivation of the soil but also natural resins, saps, gums of trees, animals, fish, and the produce of livestock, such as wool, eggs, milk, and cream. One difficulty with the House bill is that it confines the agricultural exemption to contracts or subcontracts with the producers of the agricultural commodity. The Finance Committee substitutes for the House exemption the

exemption provided for in the World War II law. That law granted the exemption not only to contracts or subcontracts with the producer of the agricultural commodity but also to contracts or subcontracts with the person acquiring such product. Testimony before the Finance Committee indicated that the House bill would work considerable hardship. If a factor or merchant who handled and sold the agricultural products in their raw or natural state is subject to renegotiation he would pay the farmer less for his product. For example, a cotton merchant who buys raw cotton to sell to a cotton textile manufacturer would probably pay to the farmer a much lower price for his cotton if he were subject to renegotiation.

Any contract or subcontract for the product of a mine, oil, or gas well, or other mineral or natural deposit or timber, which has not been processed, refined, or treated beyond the first form or state suitable for industrial use is also exempt from renegotiation under the bill as amended by the Senate Finance Committee. An illustration of this exemption is that it would apply to contracts or subcontracts for the sale of pig iron, which is the first form or state of iron ore suitable for industrial use. Similarly, certain byproducts resulting from processing designed to produce an exempted product are also exempt from renegotiation. For example, natural gasoline is a byproduct resulting from the processing of natural gas and would, therefore, not be subject to renegotiation since it falls within the purview of the raw materials exemption contained in section 106 (a) (3).

This exemption is broader than that provided in the House, which limited the exemption to the product of the producer and made the exempted state of the material the same as that at which percentage depletion is allowed.

The Board is required to prescribe regulations which will give an integrated producer a cost allowance substantially equivalent to the amount which would have been realized by such a contractor or subcontractor if he had sold his product at the last exempted form or state. This places the integrated producer who either acquires any of the agricultural commodities or raw materials or produces them initially and then processes them up to and beyond the last exempted form or state on a parity with a producer who sells at the last exempted form or state.

Another provision which was in effect during World War II exempted from renegotiation the profits realized by a contractor or subcontractor by reason of the increment in value of his excess inventory of the agricultural products described herein or the products of a mine, oil, or gas well, or other mineral or natural deposit or timber.

The omission of this exemption by the House subjected to renegotiation an inventory profit which is not a manufacturing profit. Under the bill as passed by the House, a contractor or subcontractor who had on hand agricultural products or other raw material in excess of his contract needs which inventory

had increased in value will be penalized if he processes such material beyond an exempt state and uses such products to fulfill Government contracts instead of going out in the market and purchasing new products at current prices to fulfill such contracts. The Finance Committee restored the World War II exemption. The following example will show how the Finance Committee amendment operates:

A has, through the purchase of long cotton, 600,000 pounds of cotton on hand on a particular date, which has a book cost of 30 cents a pound. On this date A has future orders which will consume only 100,000 pounds of such cotton. A thus has a long position of 500,000 pounds of cotton. The next contract that A takes is for Government goods and requires the use of 500,000 pounds of such cotton. On the day A takes the Government contract the current market price of such cotton is 35 cents a pound. In such a situation, A has placed himself in a position to realize an inventory profit of \$25,000. This inventory profit, if realized, is not a manufacturing profit, but is in the nature of an investment or speculative profit which could be realized. It has no relationship to the profits to be derived from the Government contract, and therefore represents a profit from an excess inventory, which is excluded from renegotiation under the amendment.

The finance committee also added an amendment providing for a mandatory exemption in the case of contracts or subcontracts entered into with charitable, educational, scientific institutions, and so forth, exempt from taxation on their income from their related activities. The exemption applies only where the income from the contract or subcontract does not constitute unrelated business income for Federal income tax purposes. The bill as passed by the House did not provide for such an exemption. It is the opinion of the Finance Committee that such an exemption will be particularly beneficial in the case of contracts or subcontracts entered into with educational institutions to conduct research activities.

Another finance committee amendment provided for an expressed exemption from renegotiation in the case of contracts and subcontracts with common carriers or public utilities. This exemption was felt advisable because the vendor in such cases is subject to regulation by a public body. The exemption also applies to him if unregulated where he does not charge rates higher than these regulated rates. The bill as passed by the House did not contain any such exemption.

A new provision which your committee has added to the bill concerns long-lived industrial equipment, such as machinery, tools, and so forth. Some of my colleagues may recall that a provision dealing specially with this type of equipment was voted by this body in January of 1944 for incorporation in the renegotiation statute in effect during World War II. That provision was eliminated in conference, but the peculiarities of this type of equipment have now been

reconsidered by the committee, and the conclusion has been reached that some limited protection is appropriate for manufacturers of such equipment.

When such equipment is sold directly to the Government, or to a contractor for the account of the Government, the sale is comparable to the sale of any other product entering into defense production. The Government pays the price and gets the equipment, and it is appropriate in such circumstances that the transaction should be subject in its entirety to renegotiation.

Where, however, the equipment is not sold to or for the account of the Government, but is sold to a contractor or subcontractor who uses it on Government work, a different situation prevails. Most productive equipment is used up only partly on Government work. The remainder of its useful life is devoted, in most cases both concurrently and subsequently, to private commercial production of its owner. The committee considers it only fair, then, that only that portion of the price paid for such equipment which corresponds to its defense use should be subject to renegotiation.

Of course, the extent of such use is never ascertainable in advance. The finance committee has determined, therefore, to solve this problem by making a flat and arbitrary assumption that productive equipment delivered to defense contractors or subcontractors will be used exclusively on defense work for the first 5 years and that the balance of its service life will be exhausted in commercial production. This allocation appears to be fair to the Government and the manufacturers alike, and also permits the application of a satisfactory working rule.

The rule we propose is that only that fraction of the amounts realized from the sale of durable productive equipment shall be subject to renegotiation which 5 years constitutes of the average useful life of such equipment. In other words, if the item has a 10-year life, one-half of the price paid therefore will be subject to renegotiation; if it has a 15-year life, one-third; and so forth. Bulletin F issued by the Bureau of Internal Revenue in 1932 prescribes the average useful life of most items of productive equipment. When it does not, the Board will apply its own estimate. The bill so provides.

The bill as passed by the House makes subject to renegotiation all of the moneys received or accrued by a contractor and related subcontractor on or after January 1, 1951, and attributable to performance on or after July 1, 1950, where the contracts are with the Departments of Defense, Army, Navy, Air Force, Commerce, the General Services Administration, and the Atomic Energy Commission. The Finance Committee added to the list specifically named the Reconstruction Finance Corporation. The Reconstruction Finance Corporation was covered under the World War II law, and the Finance Committee is of the opinion that it should be covered under the pending bill, since the Reconstruction Finance Corporation's synthetic rubber, tin, and abaca operations are within the areas of contracts for defense materials

which are proper subjects for renegotiation.

I may say, Mr. President, that the distinguished senior Senator from South Carolina [Mr. MAYBANK] has offered an amendment relating to this matter, which the committee will be glad to accept at the proper time.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. GEORGE. I yield to the Senator from South Carolina.

Mr. MAYBANK. My intention in offering the amendment was to include the public housing authorities also in the renegotiation provision. I believe that if we renegotiate contracts of everybody who has any business with the Government, those in the business of housing should also be included in the renegotiation provision, and I thank the Senator for what he has said about accepting the amendment.

Mr. GEORGE. The Finance Committee thoroughly agrees with the position taken by the distinguished Senator from South Carolina.

Mr. CASE. Mr. President, will the Senator from Georgia yield?

Mr. GEORGE. I yield to the Senator from South Dakota.

Mr. CASE. I notice that by an amendment the committee proposes to include the Reconstruction Finance Corporation. I was wondering whether it would also be necessary this time to mention the Panama Canal, in view of the language in section 102 which makes the title applicable to departments specifically named.

In explanation of my question, let me say that as the author of the amendment to the sixth supplemental defense bill of 1942 in the House of Representatives, which instituted the policy of renegotiation, I was recently called before a court here in the city of Washington to testify in a case in which the Government was seeking to recover from a contractor who had a contract for constructing the third set of locks on the Panama Canal.

The Senator from Georgia will recall that construction of the third set of locks on the Canal was started, but was later suspended during World War II. The contractor in the pending case has been contending that the Panama Canal was not covered by the language in the original act which named the Secretary of War and the War Department, and so argues that he was not subject to the renegotiation law. Within the past few weeks, as I have said, I was called in to testify on the intent of the coverage in the original renegotiation act, so far as the Panama Canal was concerned.

I might say, in this connection, that it was my thought that the Panama Canal was covered, since the Governor operated under the then Secretary of War. We did not name the Reconstruction Finance Corporation in the original act, but did bring it in by an amendment which I offered to a subsequent appropriation bill. But I raise the question here so that a similar doubt might not arise in the future.

I am not certain whether any reorganization has been concluded which

would bring the Canal Zone under any agency of the Government. If not, and if we are to specifically name the agencies which are to be covered by the pending bill, we ought to include the Canal Zone, so as to prevent any such contingency arising in the future.

Mr. GEORGE. I think there is much merit in the suggestion of the distinguished Senator from South Dakota. However, I think a provision in the bill does cover the specific question.

Mr. CASE. On page 2, lines 12 to 14, the bill states:

The provisions of this title shall be applicable (1) to all contracts with the departments specifically named in section 103 (a).

The Canal Zone is not specifically named. Whether it comes under a department by virtue of a reorganization act, I do not know. It is not necessary to name the Maritime Commission, for example, because it was brought under the Department of Commerce.

Mr. GEORGE. It is in the Department of Commerce. I think the Canal Zone has been brought under a department, too, although I am not certain on that point. I should like to invite the Senator's attention to the further provision that the President himself is given the authority to add to the list contained in the bill any department which exercises functions in connection with the national defense.

Mr. CASE. Apparently the President could make such designation.

Mr. GEORGE. The President could make the designation. I believe the Canal Zone has been brought under a department by a reorganization act. I believe it has been brought within the application of the proposed act. I am not certain of that fact, however. As I stated, I am not certain on that point.

Mr. CASE. I am under that impression also. I would suggest, therefore, that before consideration of the bill is completed, we should check into the subject. In the instance to which I referred the defense of the contractor was that the Canal Zone had not been named.

Mr. GEORGE. I thank the Senator.

Mr. President, I have already called attention to the fact that, in addition to the departments specifically named in the bill, the President is given the power to add other agencies and departments which exercise functions in connection with the national defense.

The Finance Committee is of the opinion that this power of the President should be confined to naming those additional departments exercising functions having a direct and immediate connection with the national defense. While a literal wording of the bill may require all contracts with the departments specifically named, or those designated by the President, to be renegotiated, the Finance Committee contemplates that the Renegotiation Board by a judicious use of its power to make permissive exemptions of contracts by classes or types will properly limit the area of renegotiation where contracts are not intimately related to the defense effort.

Mr. LANGER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield to the Senator from North Dakota.

Mr. LANGER. The Senator from North Dakota is curious to know whether in renegotiating contracts the amount which is paid to a so-called 5-percenter can be deducted?

Mr. GEORGE. As I understand, the contract would be renegotiable if he were paid within the fiscal year more than \$25,000 for his fees and commissions in connection with the renegotiable contracts. I believe such a provision is contained in the bill.

Mr. LANGER. Can the Senator point to the provision which deals with such 5-percent commissions?

Mr. GEORGE. I shall read from the report. In the meantime, I shall try to locate the provision in the bill. I read from page 3 of the report:

Your committee bill continues the \$25,000 limit contained in the House bill in the case of subcontractors whose income is derived from commissions and fees based upon renegotiation contracts and subcontracts.

That is to say, if the fees received exceed \$25,000 within a fiscal year, the fees are to be renegotiated by the board. The Senator will find the provision on page 26, at line 21, of the bill. It is contained in subsection 2.

Mr. LANGER. If a contract extends over a period of 5 years, a 5-percenter can be paid \$25,000 each year. Is that correct?

Mr. GEORGE. The bill refers to the aggregate amount of the contract. That is what makes the contract renegotiable. It is the aggregate amount actually paid or approved. When the total fees runs above \$25,000 for a fiscal year, the fee is subject to renegotiation.

Mr. LANGER. Why should any citizen of this country who wants a subcontract be allowed to pay 5 percent to another person, and deduct the 5 percent fee at the time his contract with the Government is renegotiated? Why cannot the Government advertise and get subcontracts without making it necessary for a contractor to pay someone else 5 percent?

Mr. GEORGE. Of course, there is a great deal of merit in what the Senator from North Dakota suggests. Under the income tax laws a contractor or subcontractor, or any taxpayer, may claim what he considers in good faith to be a reasonable expense in carrying on his business. If the taxing authorities agree with him, he can deduct the fee in computing his own taxable income.

Mr. LANGER. Mr. President, will the Senator yield further?

Mr. GEORGE. I yield.

Mr. LANGER. Does the Senator from Georgia believe that such a provision would be an open invitation to persons with influence to sell their influence in order to get a 5-percent fee?

Mr. GEORGE. No; I think not. I think it would be a discouragement, because all the facts revealed in the investigation showed, as the Senator will recall, that some of the 5 percenters got exorbitantly large sums of money. The provision in the pending bill would place a limitation on such practice. The fees would become renegotiable if

in the aggregate for the fiscal year they ran above \$25,000.

Mr. LANGER. Therefore a subcontractor could get as much as \$25,000, if a contract ran as long as 5 years, without his subcontract being subject to renegotiation.

Mr. GEORGE. He could not get \$25,000 on a particular contract. He could only be exempt if his total fees and commissions ran above \$25,000 within a fiscal year. I believe it is a restrictive measure, which has worked very well. While there ought to be some way of advising a contractor or subcontractor about contracts to be let, as the Senator points out, so that businessmen would not have to pay any unnecessary sum of money, probably good businessmen find it convenient, advisable, and a reasonable business practice to engage engineers, and others with special knowledge, in order to negotiate certain contracts for them.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. GEORGE. I yield to the Senator from Ohio.

Mr. TAFT. I should like to suggest to the Senator from North Dakota that what he is saying may be perfectly sound. However, I do not believe the subject should be dealt with in a renegotiation bill. If it is sought to prohibit such practice, it should be done in a measure dealing with the general subject of Government contracts. In this bill we are not trying to say what is legal and what is not legal. We say that when a man makes too much money we will renegotiate and see to it that he gets only the reasonable value of his work or contract. The subcommittee headed by the distinguished Senator from North Carolina [Mr. HOEY] is investigating the subject, and he may have something to report on the subject. I do not think a renegotiation bill is the place in which to try to legislate the legality of various kinds of contracts.

Mr. GEORGE. I thank the Senator.

Mr. LANGER. Mr. President, will the Senator yield further?

Mr. GEORGE. I yield.

Mr. LANGER. I may say that I was very much impressed by the splendid work which was done by the Senator from North Carolina [Mr. HOEY]. I think he did a very fine job. However, I believe the language of the bill on page 27, lines 5 to 11, is very indefinite. It says:

If the aggregate of such amounts received or accrued during the fiscal year under such subcontracts—

What is there to prevent a person from making a contract and getting \$25,000 during the first year, \$25,000 during the next year, and spreading out his fees over a period of years?

Mr. GEORGE. This is a limitation upon the fees and commissions of the person rendering services for the contractor or subcontractor. He cannot escape renegotiation if the sum total which he receives from such fees exceeds \$25,000.

Mr. LANGER. I still do not see how that prevents a commission man from

going to a man who wants a contract and saying to him, "You are going to get a 5-year contract. You are going to pay me \$25,000 in 1951, \$25,000 in 1952, \$25,000 in 1953, and so forth." I think that is the kind of thing that ought to be stopped, and it seems to me this language will not stop it.

Mr. GEORGE. It does not undertake to stop or prevent or outlaw a particular contract. What is says to the contractor or subcontractor is, "When your expenditures for this item exceed \$25,000, it is subject to renegotiation, and the reasonableness of the expenditures will be looked into by the board."

If a particular contractor were to have only one contract with the Government, and if he were to be paid over a period of time, he could make his contract; but if the amount paid out or the amount accrued under the contract reached \$25,000 in the fiscal year, that would be all that he could deduct, unless the board itself found his expenditures to be reasonable.

Mr. LANGER. Under this wording, could he not get \$25,000 the succeeding year, \$25,000 the year after that, and so forth?

Mr. GEORGE. Does the Senator mean the contractor?

Mr. LANGER. I mean the commission man, who gets the 5 percent.

Mr. GEORGE. Yes; he could do it if he were not paid a total of \$25,000 within the fiscal year. In any event the transactions would be subject to Federal income and excess-profits taxes.

Mr. LANGER. On page 37, line 7, I notice that appointments of officers and employees are to be made without regard to civil service laws and regulations. I wonder why they were taken out of civil service?

Mr. GEORGE. The purpose was to enable the Board to make its contracts rapidly, as it must do. While the civil service laws do not apply, the salaries fixed in the Classification Act do apply. It was thought that that would enable the Board to procure more rapidly suitably experienced persons to do the particular job. It must be done quickly, of course, because contracts are now being made, and some are being executed.

Mr. LANGER. That would be true in any war, would it not? In order to get employees rapidly, they must be taken outside the civil service.

Mr. GEORGE. That would not be true of the established agencies of Government; but with respect to a new agency which had to do directly with the defense program, it would be true in a measure. I think we have exempted other agencies from the civil service laws under similar circumstances, when it was desirable to obtain competent persons quickly—perhaps before they could be qualified under civil service.

Mr. CASE. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. CASE. With further reference to the class of contracts described in section 103 (G) (3), pertaining to services performed in obtaining contracts, with

the \$25,000 limitation, how is it proposed to keep track of the \$25,000 limitation when the agent receives his fees from more than one contractor? Clearly, if a single contractor pays more than \$25,000 to a subcontractor or to a commission agent, that can be readily determined; but suppose the agent receives fees from more than one contractor, and seeks business from the whole field?

Mr. GEORGE. I think the subcontractor is required to file a statement with the Renegotiation Board, and itemize receipts from various sources.

Mr. CASE. That is, anyone in the business of selling his influence or selling his contacts dealing with the defense contracts will be required by the act to make a report to the Renegotiation Board?

Mr. GEORGE. That is correct, as I understand.

Mr. CASE. That certainly is an end greatly to be desired; and if the language in the bill is sufficient to accomplish that purpose, it will render a great public service.

Mr. GEORGE. I believe we had definite assurance that that policy would be followed in the regulations to be made effective, particularly in respect to the matter which the Senator has pointed out.

Mr. LANGER. Mr. President, will the Senator further yield?

Mr. GEORGE. I yield.

Mr. LANGER. I wonder why natural gas was exempted?

Mr. GEORGE. I have already passed that point. It is exempted only when it is a byproduct.

Mr. LANGER. I ask the same question with respect to oil.

Mr. GEORGE. It was exempted under the World War II Act, and we simply followed the World War II Act. The exemption exists only when it is a byproduct of an exempted product.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. MORSE. I wish to follow the Senator's pleasure. I have not been able to be present in the Chamber during all the time the Senator has been speaking. I have certain questions which I wish to ask in regard to the bill. Would the Senator prefer to complete his explanation of the bill and then have me discuss certain sections of the bill?

Mr. GEORGE. I believe I would prefer that course, unless in what I shall subsequently say I cover some of the points about which the Senator wishes to inquire.

The House bill does not provide for any carry-over of loss from 1 year to another in the case of renegotiable contracts. The Finance Committee has added to the bill an amendment permitting the excess of costs paid or incurred with respect to renegotiable contracts and subcontracts in any fiscal year over the amount received or accrued in such fiscal year, to be carried over and applied as an item of cost in the next succeeding fiscal year, subject to the regulations of the Board.

Mr. MORSE. Mr. President, will the Senator yield at that point?

Mr. GEORGE. I yield.

Mr. MORSE. That happens to be the point about which I wished to query the Senator.

Under the old Renegotiation Act, as I understand, the Renegotiation Board could not take into consideration, no matter what the surrounding facts and circumstances might be, a loss which occurred 1 year in connection with a profit which occurred in another year. For example, take the case of a given contractor, Mr. X. Let us say that in 1942 he made \$100,000. In 1943 he lost \$200,000; and in 1944 he made \$5,000. When we came to consider his renegotiation problem we could not take into account the year in which he suffered the heavy loss, with the result that I am satisfied, from my own investigation of certain cases, that some great injustices were done to certain contractors.

I have two questions to ask the Senator:

First, under the terms of the bill will the Renegotiation Board be allowed the wise discretion of taking into account both the losses and the profits which a contractor may make on Government contracts, in order to see to it that equity is done to him in the final renegotiation settlement?

Mr. GEORGE. That is correct—for 1 year only, however. The bill does not authorize the carry-over for more than 1 year. But if in one year there is a loss, and in the subsequent year there is a profit, the loss, if it arose out of renegotiation of a contract, can be carried forward so that equity may be done to the contractor. Some cases have been brought to my attention, and no doubt have been brought to the attention of all other Senators, where the failure to give any carry-over, even for 1 year, has resulted in great hardship and in injury to the contractors.

Mr. MORSE. I completely agree with the Senator from Georgia that that is true. I know of one case, with which the Senator from Georgia is familiar, because he has been very courteous and helpful in doing what he could as a committee member in having the case reviewed, and I refer to it here for the purpose of the Record because of a possible amendment I may want to discuss with the Senator from Georgia. I refer to a case with which the old Renegotiation Board did not take into account a loss suffered in one year when considering its renegotiation of a profit in another year.

Mr. GEORGE. That was done under the old law. That is correct.

Mr. MORSE. So I invite the Senator's attention to page 45 of the bill, "Title II—Miscellaneous provisions," section 201, subsection (b) "Transfer of functions in general." I assume that this transfer of functions in general "conferred upon the War Contracts Price Adjustment Board by the Renegotiation Act" to the new Renegotiation Board would not permit the new board to apply the new provisions and regulations in taking into account losses suffered in 1 year as against renegotia-

tions of profits made in another year in respect to pending cases going back to the work of the old Renegotiation Board of World War II?

Mr. GEORGE. As I am advised, the Senator's understanding is correct. The Board would only apply the old law in that case. It could not give to the contractor the benefits of any provision of this measure, which for the first time was inserted in the law.

Mr. MORSE. In reading the bill in toto, as I have, am I correct in my understanding that there is no language anywhere in the bill which possibly authorizes the new board under the new law to seek to do equity in any cases pending from the old board?

Mr. GEORGE. The Senator's interpretation is correct. It does not apply. I personally have given some consideration to the problem. I had hoped that we might have some opportunity to apply an equitable provision in this measure in adjusting contracts which arose prior to the passage of this measure. But I have not been able to work out anything. I will say to the distinguished Senator from Oregon. This measure would not take care of the situation as he states it.

Mr. MORSE. Again I want to say for the record that I appreciate the outstanding fairness the Senator from Georgia has extended to the junior Senator from Oregon in regard to this problem, which I have mentioned to him in conversation and conference. I only want to say for the record that I do not think time ever rectifies or justifies an injustice. If we are, in this measure, seeking to prevent the kind of injustices which existed under the old act so far as the carry-over principle is concerned, it seems to me unfortunate that we do not take the steps necessary in this measure to clear the record of existing injustices. If we leave them to the Department of Justice under the wording of the old act, it apparently leaves the Department in no position but to follow a course of collecting from a given contractor on a renegotiation basis a return from the profits he made, irrespective of the fact that the very next year the Government itself might very well have been responsible for his suffering great loss, as I know is the case, having studied the complete record of the case I presently have in mind. Therefore, I ask the Senator from Georgia if he thinks it would be unwise and unworkable to include in this measure a power in the new board to consider on appeal or review any specific cases which would justify a modification, in view of the surrounding facts and circumstances pertaining to those cases, so as to permit the Board to prevent injustices from being meted out to various contractors who will suffer an injustice if we simply apply the strict and literal meaning of the old act?

Mr. GEORGE. I will say to the Senator that I would be very happy if a proper provision along that line could be worked out. I have been unable to do it primarily for this reason: The distinguished Senator now has in mind a pending or open case. If all the cases were

open, it could be done. But, of course, many hundreds and thousands of them have been closed without this right and without the benefit of this provision, and it would open up, or create, or rather bring to light inequities in those closed cases, and there would, of course, be some substantial basis for a consideration of those cases.

However, I may say to the Senator that if, before we finish action on the bill, any suitable amendment can be prepared to enable us to take this matter to conference so we can see if there is a possibility in conference of perfecting a provision which would meet the essential and substantial equity in cases which arose under the prior law, but which are as yet open and undisposed of, I shall be very glad to give it most sympathetic consideration.

Mr. MORSE. If the Senator from Georgia will permit me to make an additional comment at this point in the Record, I certainly want to thank him for his offer of cooperation in this matter. In my opinion, he is correct, that the adoption of the principle for which I now argue will raise some question in regard to some settled cases. But I do not think we should overlook the fact that what we are dealing with here is not a matter involving business relations between two private contractors, but involving business relations between the United States Government and citizens of the country. Under the experience of those relationships, we have come to find, as I think the bill makes clear, that the United States Government insisted upon the application in its renegotiation of some very hard principles of renegotiation, in connection with which it failed to do equity to its citizens by not taking into account losses they suffered in one year when factually many times the responsibility for those losses was more the fault of the Government than of the citizen himself. Although doing equity now might open up some old cases, I hold tenaciously to the point that whenever my Government on the record has been found guilty of doing an inequity, I care not how old the inequity is, or how closed the case may be, if the equitable principle would be to make an adjustment beneficial to the citizen, I think it ought to be made.

If this principle—and I assert that the principle which the committee is inserting in this new bill is a sound one—is proper for the future contracts into which the Government enters in connection with the present defense program, then I say it ought to be applied to the contracts the Government negotiated during World War II, from the standpoint of reviewing cases only to determine whether an inequity or an injustice was done in specific cases by not carrying over into the following year the losses suffered in a previous year. I know we are going to find a considerable number of cases in which the Government struck a very hard bargain and worked great inequities.

Therefore, I am perfectly willing to take the position on the floor of the Senate today that we ought to reopen those

cases and should give to the contractors involved the benefit of the equitable rule which we now say—having profited from the experience we had with the old act—should have applied during World War II. How many of those cases there will be, I do not know; but whether it is "Y" number or "X" number, if an inequity or an injustice were done, and if we now have a chance to rectify it, I think we should do so, and should give the review board or the appeals board an opportunity to take a look, frankly allowing it, in giving it that review power, to consider those cases and see whether an adjustment should be made.

So long as the Department of Justice takes the position that under the language of the present law it cannot take into account the fact that a loss was suffered by a contractor under conditions over which he had no control—and I challenge the correctness of that position, but this is not the place to debate that point—then I say to the Senator that the way to correct the injustices and inequities existing in the cases now pending is to give the board the power of review. Of course, I have no objection to having an adjustment made of those cases, if the Government finds that an inequity has been done.

As I indicated a moment ago, the Department of Justice takes the position that if a contractor suffers great losses during a given year as the result of unforeseen conditions which developed after the contract was entered into, the contractor cannot offset those losses against profits made during the preceding year. This situation has worked great injustice and has threatened some contractors with bankruptcy.

In this new bill the committee apparently recognizes that the Renegotiation Board and the Court of Tax Appeals should be allowed the discretion of taking into account the equities involved in cases of losses, and should permit an offset of those losses suffered during a given year against profits made during another year. I think that is right, but I think that procedure should be applied to the old cases, as well.

I assure the Senator from Georgia that following this discussion I shall proceed immediately from this floor to consult legislative counsel. I shall present this matter to him, and shall ask him to cooperate with me during the next hour in the drafting of an amendment, which I should like to submit to the Senator from Georgia, for his consideration, to see whether it can be taken to conference, because I am satisfied that the Department of Justice at the present time is working such great injustices in some cases that something must be done to check that Department in what I think are very inequitable and unjust renegotiation settlements upon which it is insisting. It is the old case of the Federal Government again collecting a pound of flesh from a citizen, when in many cases the responsibility for the situation is more that of the Government than that of the citizen.

Mr. CASE. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. HOEY in the chair). Does the Senator from Georgia yield to the Senator from South Dakota?

Mr. GEORGE. I am glad to yield.

Mr. CASE. I should like to express the hope that the distinguished and able Senator from Oregon will not propose that a new appeals board be set up to take over the functions which have been so well exercised by the Tax Court during the past few years. I hope that any suggestion of a further appeal will not result in the creation of a review board to be placed over the Tax Court.

Mr. MORSE. Mr. President, will the Senator from Georgia yield, to permit me to reply?

Mr. GEORGE. I am glad to yield.

Mr. MORSE. I wish to say to my good friend the Senator from South Dakota that I am perfectly willing to have the Tax Court handle these matters; but what the Tax Court says now is that it is bound by the letter of the law, and cannot take into account a loss suffered one year, in renegotiating the profits made in another year, irrespective of the fact that the Government may have been responsible for the loss suffered.

Under the new bill the Tax Court will have the right, in connection with the litigation, to take into account the carry-over for 1 year, as explained by the Senator from Georgia.

All I am asking for is that if that procedure is fair now, then it ought to be considered as fair under the problems which arose under the old Renegotiation Act during World War II, because I can show the Senator—as I shall be glad to do, knowing his keen sense of fairness and equity—cases in which the Government was primarily responsible for the loss which was suffered, but the contractor could not receive the benefit of those facts and surrounding circumstances in obtaining an equitable settlement of his claim. That is all I am asking for.

I care not who does it—whether the Tax Court does it or whether the Government gives the power, as is done by this bill, to the renegotiation board in the first instance.

Mr. CASE. Mr. President, would the Senator have any objection to reopening cases?

Mr. MORSE. I have no objection to reopening a case if an inequity was done in the final settlement.

I am simply saying that I think the principle that losses incurred in one year can be carried over as against the profits made in a subsequent year—as is provided by this bill—is a sound principle. That is why it is provided for in this bill, I assume because of the experience under the old renegotiation law, for we found that without this safeguard in a new bill, we would continue some injustices and some inequities which the Government committed against its citizens during World War II.

I wish to see equity done not only as to future contracts, but also as to contracts with citizens whom the Government has wronged in the past.

I submit to the Senator from South Dakota that the Government has

wronged a good many of its citizens in the past by not permitting that carry-over to be made.

Mr. CASE. Mr. President, will the Senator from Georgia yield further?

Mr. GEORGE. I yield.

Mr. CASE. Let me say that the discretion afforded the old Price Adjustment Board was such that it was impossible for it to take into consideration the financial condition of a company. In the case of any company which had any continuing operations with the Government, it is my opinion that for the most part the record was fairly good. If anything, the Board was generous to the contractor, in case of doubt.

I think we might well consider the precise language now proposed before we give the Board, or any review or appellate body the right to reopen cases which have been closed.

Mr. MORSE. Mr. President, will the Senator from Georgia yield for 1 minute further?

Mr. GEORGE. I yield.

Mr. MORSE. I wish most respectfully to submit notice of my disagreement with the observation just made by the Senator from South Dakota, namely, that the old Board exercised its discretion wisely or had such discretion to exercise. It had no discretion in regard to the problem covered by the language of the new bill now under discussion, namely, the taking into account of a loss suffered in 1943, as against a gain made in 1942.

I wish to cite to the Senator from South Dakota, for example, cases which fell into the following category: A contractor on a fixed-amount contract subsequently found himself confronted, for example, with the new cost of portal-to-portal pay, which caused him to take a considerable loss during the year when provision was made for portal-to-portal pay. He was not allowed by the old Renegotiation Board to take into account the new condition which caused him the loss.

I simply wish to say that the old Renegotiation Board took the position, and now the Department of Justice takes the position, as does the Tax Court, that under the language of that law they could not take into account the fact that the contractor's loss was suffered because of conditions over which he had no control. However, I think they should have the power to take those conditions into consideration or account. I think a great many injustices occurred as a result of that language which is now for the future specifically to be corrected by the new bill, and I am glad that is so. However, I repeat that the Government has been guilty of doing many injustices to contractors during World War II because this language of discretion was not contained in the old law.

Mr. GEORGE. Mr. President, let me say a word further on this point, because I want to complete the record. It is believed that this provision will be particularly beneficial to the small contractor and any contractor beginning production under defense contracts. Experience has shown that losses are frequently incurred at the beginning of produc-

tion as a result of tooling up and other nonrecurring charges. This is particularly true with respect to new items not previously manufactured by the contractor or subcontractor.

Under the House bill certain factors are required to be taken into consideration in determining excessive profits. Among the factors is one relating to the efficiency of the contractor or subcontractor. The Finance Committee is of the opinion that the statement of this factor in the House bill does not require favorable recognition of efficiency. Accordingly, the Finance Committee amended the House provision to require that favorable recognition must be given to the efficiency factor.

The House bill also contained a net worth factor but limited the consideration of this factor to the reasonableness of return on the net worth. The Finance Committee felt that the House provision was too restrictive and that it might preclude a consideration of replacement costs, total assets used in the business and other features. Accordingly, the House bill has been amended to require that all aspects of net worth must be considered and not merely the return thereon.

The House bill provided for the payment of interest at the rate of 6 percent per annum upon unpaid renegotiation indebtedness and in the case of amounts refunded to the contractor required the Government to pay interest also at the rate of 6 percent. The Finance Committee is of the opinion that the 6 percent rate is too high from both the contractor's and the Government's standpoint and has added an amendment reducing this rate to 4 percent.

An amendment was also adopted to the House bill preventing interest from accruing after 3 years from the date of the filing of a petition by the contractor or subcontractor with the Tax Court where there is no final determination by the Tax Court with respect to such petition within such 3-year period. This amendment will protect the contractor or subcontractor from the running of interest where payment has been postponed because of long litigation or court delays. In addition, the Finance Committee added an amendment to provide that if the Tax Court determines a lesser amount than that determined by the Renegotiation Board, interest will not accrue on such lesser amount if the contractor or subcontractor prior to filing his petition with the Tax Court tendered in payment an amount equal to or greater than the amount determined by the Tax Court.

Another amendment affecting interest which was added by the Finance Committee provides that interest on unpaid renegotiation indebtedness should not commence to run until the thirtieth day after the date of the order of the Renegotiation Board or the date fixed for repayment by agreement of the parties. Under the House bill, interest would start to run from the date fixed for repayment by order of the Renegotiation Board or by agreement of the parties.

The Finance Committee also made a series of minor amendments to the

House bill. One permits affiliated groups under certain conditions to conduct renegotiation on a consolidated basis if they so request. Another expressly excludes from the definition of subcontractor purchase orders or agreements to furnish office supplies. This is in accordance with the World War II statute. A third gives the contractor or subcontractor petitioning the Tax Court, 10 days to secure a bond to stay collection pending the Tax Court proceedings instead of 5 days as provided in the House bill. A fourth amendment provides that the Renegotiation Board may employ personnel without regard to the civil-service laws and regulations. However, such personnel will be subject to the pay limitations of the Classification Act. A fifth amendment requires all moneys recaptured through renegotiation proceedings to be covered into the Treasury. The House bill provided that all moneys recovered in respect of amounts paid to the contractor or subcontractor from corporate or other revolving funds should be restored to such funds.

In order to facilitate the execution of the national defense program, the Finance Committee also adopted an amendment to enable banks, trust companies, and other financing institutions to advance funds needed by contractors and subcontractors without incurring the liability that money due or to become due under the assigned contract or subcontract may be withheld for the collection of the renegotiation liabilities of their assignors. Upon that point, Mr. President, on behalf of the committee, I shall offer a clarifying amendment to meet certain objections which have been raised by the lending institutions to that provision of the Senate bill.

To conform to more accurate accounting practice, the word "books" in several places in the bill has been changed to "records." The provision giving the Board in its determination of profits the power to eliminate items of cost which in its opinion are unreasonable, but which may be disallowed under other provisions of the bill as improper income-tax deductions, has been omitted as redundant and contradictory.

The House bill contains a provision suspending the profit limitation provisions of the Vinson-Trammel Act with respect to contracts or subcontracts, receipts or accruals of which are subject to renegotiation under this bill. At the request of the Maritime Commission, the profit-limitation provisions of section 505 (d) of the Merchant Marine Act, 1936, are also suspended with respect to any contract or subcontract if any of the receipts or accruals therefrom are subject to this bill.

Finally, the House adopted a provision suspending the prohibition of persons performing duties under the bill from acting as counsel, agent, or attorney for prosecuting claims against the United States after such person was no longer employed in any Department or the Board. The Finance Committee broadened the House provision to conform to the World War II statute so that any person employed in any named department or any department designated by the President, during the period, or a

part thereof, beginning July 1, 1950, and ending December 31, 1953, will not be subject to such prohibition even though while with the Government he was engaged in performing duties not connected with the bill. This broadening of the provision is considered essential because of the desire to secure in the defense agencies men of professional experience who may desire to return to their former professions after their Government service has ended.

Mr. McCLELLAN, Mr. BENTON, and Mr. LEHMAN addressed the Chair.

The PRESIDING OFFICER (Mr. MONROE in the chair). Does the Senator from Georgia yield; and, if so, to whom?

Mr. GEORGE. I yield first to the Senator from Arkansas.

Mr. McCLELLAN. I desire to ask the Senator whether it is the purpose of this bill to make all Government contracts renegotiable.

Mr. GEORGE. No, I may say to the Senator, that is not the purpose. The committee was quite well satisfied of that from the general attitude and approach of Mr. Frank Roberts, who greatly assisted the committee in the preparation of its amendments to this bill, and who is at the present time the chairman of the Renegotiations Board, as I understand. We were given the positive assurance that it was not the purpose to renegotiate all contracts made, although the bill literally provides for the renegotiation of all contracts made with specific agencies; for example, with the Defense Department. At one time the committee was of opinion that it was necessary to write into the bill a limitation restricting the contracts to be renegotiated to those which were directly connected with the defense program. I have forgotten the exact language which was used. But upon fuller and more careful consideration—

Mr. McCLELLAN. If the Senator will pardon me—the committee used the language, I think, “having a direct and immediate connection with the national defense.”

Mr. GEORGE. That is correct—a direct and immediate connection with the national defense. But upon more mature deliberation and upon fuller consideration, the committee was of opinion that it would be very difficult to determine or to define defense contracts.

So we decided that it would be very much better to incorporate in the report a positive and definite statement of the intent and purpose of the bill. If the House accepts this view, as I am satisfied it will, then we can request the House to put into the report of the managers themselves their interpretation of the contracts which are to be renegotiated. It is obvious that some contracts might be made by the Department of Commerce which would not relate to defense whatsoever.

Mr. McCLELLAN. That is the point I am raising. It occurred to me that as the bill is now written it leaves to the renegotiating authority absolute discretion so that they could take one class of contracts not related to defense in any way and could renegotiate those, and take another class, also not related, and

say, “We do not want to renegotiate these.” It seems to me we are giving them pretty broad powers and investing them with discretion which they could exercise.

Mr. GEORGE. That is undoubtedly true. The Senator is quite right in indicating that if the proposed law is literally interpreted, any contract made with one of the named agencies, or any other agency which the President may later designate, could be renegotiated. But that is not the understanding of what will be done and the committee was very well satisfied and assured that that would not be the practice, particularly if we included a strong statement in the report.

Mr. McCLELLAN. By way of illustration, the Government makes contracts continually through a defense agency, the Corps of Engineers, for the construction of flood-control projects and works of that character, which are not necessarily related to the national defense at all.

Mr. GEORGE. They are not directly related, at least.

Mr. McCLELLAN. Not directly, at least.

Mr. GEORGE. That is correct.

Mr. McCLELLAN. But the Senator agrees that under a literal construction of the bill as written, the authorities could select any one individual contract in that category and say, “We are going to renegotiate this, and not any others in this category.” As I read the bill, they would have complete discretion to renegotiate any they desired to renegotiate, not as to particular classes of contracts, but as to individual contractors.

Mr. GEORGE. The Senator is correct in stating that, under a literal construction of the language, they would have that power. But let me call the attention of the Senator to this language in the report:

Under the House bill the President is given the authority to designate additional departments whose contracts shall be subject to renegotiation. Under the House bill, any department exercising functions in connection with the national defense might be designated. Your committee bill limits this power of the President to departments exercising functions having a direct and immediate connection with the national defense. While a literal wording of the bill would require all contracts with the departments specifically named or those designated by the President to be renegotiated, your committee contemplates that the Board by a judicious use of its power to make permissive exemptions of contracts by classes or types will properly limit the area of renegotiation where the contracts are not intimately related to the defense effort.

Mr. McCLELLAN. Let me ask the able Senator from Georgia one further question. Would the renegotiation that is authorized apply to contracts which are entered into as a result of competitive bidding, as well as to negotiated contracts?

Mr. GEORGE. It would. The bill does not distinguish, as the old law did, between contracts obtained through competitive bidding and those obtained through negotiation. But the discretionary power is in the Board.

Mr. McCLELLAN. Does the Senator feel it would do any violence to the bill to insert the words to which we have referred, which the committee originally considered, namely, “having a direct and immediate connection with the national defense”? Does the Senator think it would weaken the bill in any way merely to provide that the law shall say what is intended, rather than leave to the negotiating authorities the power to exercise the “judicious discretion,” as the Senator has expressed it, which the committee has voiced the hope they will exercise, in view of the language incorporated in the report?

Mr. GEORGE. With respect to that amendment, I may say to the Senator that the committee did reach the conclusion that it would be unwise to write the language in the bill, for the reason which I have already indicated, namely, that it is not quite possible to define with accuracy all contracts which are immediately and directly related to national defense. There is a matter of degree, and the committee thought it would be better to leave the power within the discretion of the administrators, if the language found in the report, or the substance of it, is incorporated in the report of the managers to the House when the work of the conferees on the bill has been concluded.

Mr. McCLELLAN. Mr. President, I shall offer an amendment to incorporate the language to which I have referred, and I trust that in the conference report the conferees will further emphasize what the Senator has been saying, namely, that it is expected that the law will be interpreted as the Finance Committee has hoped it would be, and that it will be “judiciously” administered, along the lines suggested by the able Senator.

Mr. GEORGE. Whether or not an amendment is offered and carried to conference, it will be the purpose of the Senate conferees to try to write an explicit, direct, definite statement in the conference report.

Mr. McCLELLAN. It seems to me it would be well if the amendment could be carried to conference, and upon further discussion with the conferees representing the House in the conference, I feel it can be emphasized sufficiently to impress the will and intent of Congress upon the renegotiating authorities.

Mr. GEORGE. Mr. President, so far as the chairman of the committee and the other members of the committee to whom I have spoken are concerned, we would not have any objection to taking the amendment to conference, because we wish to emphasize the precise interpretation the Senator from Arkansas desires to put upon the law.

Mr. McCLELLAN. I thank the able Senator from Georgia, and at the proper time I shall offer the amendment.

Mr. GEORGE. If the Senator will offer the amendment at the proper time, I shall be glad to take it to conference.

Mr. President, I ask unanimous consent that the Senate proceed to consider the committee amendments.

The PRESIDING OFFICER. Without objection, it is so ordered. The

clerk will proceed to state the committee amendments.

The first amendment of the Committee on Finance was, on page 3, after line 3, to strike out:

(b) Renegotiation Act of 1948: The Renegotiation Act of 1948 shall not apply with respect to any receipts or accruals subject to renegotiation under this title. If a contractor or subcontractor, during the same fiscal year in which he has receipts or accruals subject to renegotiation under this title, has other receipts or accruals from contracts or subcontracts subject to renegotiation under the Renegotiation Act of 1948, the provisions of this title shall, notwithstanding subsection (a), apply to such other receipts or accruals if the Board and such contractor or subcontractor agree to such application of this title; and in the case of such an agreement the provisions of the Renegotiation Act of 1948 shall not apply to such other receipts or accruals of the fiscal year.

The amendment was agreed to.

The next amendment was, on page 3, after line 17, to insert:

(b) Performance prior to July 1, 1950: Notwithstanding the provisions of subsection (a), the provisions of this title shall not apply to contracts with the Departments, or related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of January 1951, which are attributable to performance, under such contracts or subcontracts, prior to July 1, 1950.

The amendment was agreed to.

The next amendment was, on page 3, after line 24, to insert:

(c) Renegotiation Act of 1948: The Renegotiation Act of 1948 shall not be applicable to any contract or subcontract to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of January 1951, and attributable to performance after June 30, 1950, whether such contract or subcontract was made on, before, or after such first day. In the case of a fiscal year beginning in 1950 and ending in 1951, if a contractor or subcontractor has receipts or accruals prior to January 1, 1951, from contracts or subcontracts subject to the Renegotiation Act of 1948, and also has receipts or accruals after December 31, 1950, to which the provisions of this title are applicable, the provisions of this title shall, notwithstanding subsection (a), apply to such receipts and accruals prior to January 1, 1951, if the Board and such contractor or subcontractor agreed to such application of this title; and in the case of such an agreement the provisions of the Renegotiation Act of 1948 shall not apply to any of the receipts or accruals for such fiscal year.

The amendment was agreed to.

The next amendment was, on page 4, line 19, to reletter the subsection from "(c)" to "(d)", and in line 22, after the word "supplemented," to insert "and of section 505 (b) of the Merchant Marine Act, 1936, as amended and supplemented (46 U. S. C. 1155 (b))."

The amendment was agreed to.

The next amendment was, on page 5, line 9, after the word "Commission", to insert "the Reconstruction Finance Corporation."

The amendment was agreed to.

The next amendment was, on page 5, line 10, after the word "Corporation," to insert "the Housing and Home Finance Agency with respect to construction undertaken by it."

The amendment was agreed to.

The next amendment was, on page 5, line 11, after the word "functions", to strike out "in" and insert "having a direct and immediate."

The amendment was agreed to.

The next amendment was, on page 5, line 19, after the word "Corporation," to insert "the Housing and Home Finance Administrator."

Mr. GEORGE. Mr. President, I have agreed that the Canal Zone, in its official designation, shall be inserted at the proper place in the bill, if it is found to be necessary to do so.

The PRESIDING OFFICER. The clerk will state the next amendment.

The next amendment was, on page 5, line 18, after the word "Commission", to insert "the Chairman of the Reconstruction Finance Corporation."

The amendment was agreed to.

The next amendment was, on page 6, line 8, after the word "profits", to insert "favorable recognition must be given to the efficiency of the contractor or subcontractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower; and in addition."

The amendment was agreed to.

The next amendment was, on page 6, after line 13, to strike out:

(1) Efficiency of contractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower;

The amendment was agreed to.

The next amendment was, on page 6, line 18, to change the subsection number from "(2)" to "(1)."

The amendment was agreed to.

The next amendment was, on page 6, line 21, to change the subsection number from "(3)" to "(2)", and in the same line, after the amendment just above stated, to strike out "Reasonableness of return on" and insert "The."

The amendment was agreed to.

The next amendment was, on page 6, line 24, to change the subsection number from "(4)" to "(3)."

The amendment was agreed to.

The next amendment was, on page 7, line 1, to change the subsection number from "(5)" to "(4)."

The amendment was agreed to.

The next amendment was, on page 7, line 5, to change the subsection number from "(6)" to "(5)."

The amendment was agreed to.

The next amendment was, on page 7, line 9, to change the subsection number from "(7)" to "(6)."

The amendment was agreed to.

The next amendment was, on page 7, line 25, after the word "carry-back", to insert "but there shall be allowed as an item of cost in any fiscal year, subject to regulations of the Board, any excess in the preceding fiscal year of costs paid or incurred with respect to receipts or accruals subject to the provisions of this title over the amount of such receipts or accruals"; on page 8, line 6, after the word "of", to strike out "cost"; in line 7, after the word "his", to strike out "books" and insert "records"; in line 8,

after the word "of", to strike out "cost," and in line 15, after the word "costs" and the period, to strike out: "Irrespective of the method employed or prescribed for determining such costs, no item of cost shall be charged to contracts with the Departments or subcontracts or used in any manner for the purpose of determining such costs, to the extent that, in the opinion of the Board, or, upon redetermination, in the opinion of The Tax Court of the United States, such item is unreasonable or not properly chargeable to such contracts or subcontracts."

The amendment was agreed to.

The next amendment was, on page 9, line 9, after the word "subcontract", to insert "but such term does not include any purchase order or agreement to furnish office supplies."

The amendment was agreed to.

The next amendment was, on page 10, after line 16, to strike out:

(h) Fiscal year: The term "fiscal year" means, except in the case of a partnership as defined in section 3797 (a) (2) of the Internal Revenue Code, the taxable year of the contractor or subcontractor under chapter 1 of such code. In the case of a partnership as so defined the term "fiscal year" means such period as the Board by regulations may prescribe.

And in lieu thereof to insert:

(h) Fiscal year: The term "fiscal year" means the taxable year of the contractor or subcontractor under chapter 1 of the Internal Revenue Code, except that where any readjustment of interests occurs in a partnership as defined in section 3797 (a) (2) of such code, the fiscal year of the partnership or partnerships involved in such readjustment shall be determined in accordance with regulations prescribed by the Board.

The amendment was agreed to.

The next amendment was, on page 11, line 11, after the word "his", to strike out "books" and insert "records."

The amendment was agreed to.

The next amendment was, on page 16, line 11, after the word "subcontractors," to insert "The Board shall conduct renegotiation on a consolidated basis with a parent and its subsidiary corporations which constitute an affiliated group under subsection (d) of section 141 of the Internal Revenue Code if all of the corporations included in such affiliated group request such consolidation and consent to such regulations as the Board shall prescribe with respect to the determination and elimination of excessive profits of such affiliated group."

The amendment was agreed to.

The next amendment was, on page 18, line 16, after the word "the", to strike out "date fixed for repayment by" and insert "thirtieth day after the date of"; in line 18, after the word "or", to insert "from the date fixed for repayment", and on page 19, line 3, after the word "of", to strike out "6" and insert "4."

The amendment was agreed to.

The next amendment was, on page 19, line 9, after the words "from the", to strike out "date originally fixed by the Board for its repayment" and insert "thirtieth day after the date of the order of the Board."

The amendment was agreed to.

The next amendment was, on page 19, line 19, after the word "the", to strike

out "date originally fixed by the Board for its repayment" and insert "thirtieth day after the date of the order of the Board."

The amendment was agreed to.

The next amendment was, on page 20, line 1, after the word "the", to strike out "date originally fixed for repayment by the Board" and insert "thirtieth day after the date of the order of the Board", and in line 4, after the word "repayment", to insert "except that no interest shall accrue or be payable on such lesser amount if such lesser amount is not in excess of an amount which the contractor or subcontractor tendered in payment prior to the filing of the petition with the Tax Court."

The amendment was agreed to.

The next amendment was, on page 20, after line 8, to insert "Notwithstanding the provisions of this paragraph, no interest shall accrue after 3 years from the date of filing a petition with the Tax Court pursuant to section 108 of this title in any case in which there has not been a final determination by the Tax Court with respect to such petition within such 3-year period."

The amendment was agreed to.

The next amendment was, on page 21, after line 3, to insert:

(5) Assignees: Nothing herein contained shall be construed to authorize any agency of the Government, except as provided in the Assignment of Claims Act of 1940 (54 Stat. 1029), as now or hereafter amended, to withhold from an assignee any moneys due or to become due under any contract with a Department where such moneys have been assigned pursuant to such act, or to authorize any agency of the Government to direct the withholding pursuant to subsection (b) (1) (C) of this section from an assignee bank (as defined in sec. 104 (a) of the Internal Revenue Code) or from an assignee Federal lending agency of any moneys due or to become due under any subcontract where such moneys have been assigned to such an assignee as collateral for a loan.

Mr. GEORGE. Mr. President, I offer a clarifying amendment in substitution of that particular committee amendment.

The PRESIDING OFFICER. The amendment offered by the Senator from Georgia will be stated.

The CHIEF CLERK. In the committee amendment, on page 21, after line 3, it is proposed to strike out lines 4 through 18 and insert the following:

(5) Assignees: Nothing herein contained shall be construed (A) to authorize any department or agency of the Government, except to the extent provided in the Assignment of Claims Act of 1940, as now or hereafter amended, to withhold from any assignee referred to in said act, any moneys due or to become due, or to recover any moneys paid to such assignee under any contract with any department or agency, where such moneys have been assigned pursuant to such act, or (B) to authorize any department or agency of the Government to direct the withholding pursuant to this act, or to recover pursuant to this act, from any bank, trust company, or other financing institution (including any Federal lending agency) which is an assignee under any subcontract, any moneys due or to become due, or paid to any such assignee under such subcontract.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 21, line 19, to change the subsection number from "(5)" to "(6)."

The amendment was agreed to.

The next amendment was, on page 21, line 24, to change the subsection number from "(6)" to "(7)", and on page 22, line 10, after the word "Treasury", to strike out "All money recovered in respect of amounts paid to the contractor from corporate or other revolving funds (other than appropriations from the Treasury) by way of repayment, withholding, crediting, or suit under this section shall be restored to such funds. The Board is authorized to make regulations giving effect to the intent of this provision in respect of money recovered representing subcontract excessive profits not readily identifiable as to the public funds ultimately reflecting charges therefor."

The amendment was agreed to.

The next amendment was, on page 22, line 20, to change the subsection number from "(7)" to "(8)."

The amendment was agreed to.

The next amendment was, on page 26, at the beginning of line 11, to strike out "\$100,000" and insert "\$500,000"; in line 15, after the word "than", to strike out "100,000" and insert "\$500,000"; and in line 19, after the word "exceed", to strike out "\$100,000" and insert "\$500,000."

The amendment was agreed to.

The next amendment was, on page 27, line 12, after the word "Computation.", to strike out "In computing the aggregate of the amounts received or accrued during any fiscal year for the purposes of paragraphs (1) and (2) of this subsection, such computation shall be made without elimination of intercompany sales."; in line 17, after the word "the", to strike out "\$100,000" and insert "\$500,000"; and in line 20, after "(2).", to insert "In the case of a fiscal year beginning in 1950 and ending in 1951, the \$500,000 amount and the \$25,000 amount shall be reduced to an amount which bears the same ratio to \$500,000 or \$25,000, as the case may be, as the number of days in such fiscal year after December 31, 1950, bears to 365, but this sentence shall have no application if the contractor or subcontractor has made an agreement with the Board pursuant to section 102 (c) for the application of the provisions of this title to receipts or accruals prior to January 1, 1951, during such fiscal year."

The amendment was agreed to.

The next amendment was, on page 28, line 20, after the word "market", to strike out the comma and "but only if such contract or subcontract is with the producer of such agricultural commodity."

The amendment was agreed to.

The next amendment was, on page 29, line 10, after the word "deposit", to insert "or timber", and in line 11, after the word "the", to strike out "ordinary treatment processes normally applied by producers in order to obtain the first commercially marketable product, but only if such contract or subcontract is with the owner or operator of the mine, well, or deposit from which such product is produced. The term 'ordinary treatment process' means, in the case of the product of a mine, well, or deposit with respect to which an allowance for

percentage depletion is provided by section 114 (b) (3) or (4) of the Internal Revenue Code, those processes which are taken into account under such section in computing gross income from the property, and in the case of any other product such term means such similar processes as may be prescribed under regulations promulgated by the Board; or", and insert "first form or state suitable for industrial use; or"; on page 30, after line 2, to strike out:

(4) Any contract or subcontract for timber which has not been processed beyond the form of logs, but only if such contract or subcontract is with the owner of the timber property or with the producer of the logs; or

And insert:

(4) Any contract or subcontract with a common carrier for transportation, or with a public utility for gas, electric energy, water, communications, or transportation, when made in either case at rates not in excess of published rates or charges filed with, fixed, approved, or regulated by a public regulatory body, State, Federal, or local, or at rates not in excess of unregulated rates of such a public utility which are substantially as favorable to users and consumers as are regulated rates. In the case of the furnishing or sale of transportation by common carrier by water, this paragraph shall apply only to such furnishing or sale which is subject to the jurisdiction of the Interstate Commerce Commission under part III of the Interstate Commerce Act or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933; or

(5) any contract or subcontract with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code, provided that the income from such contract or subcontract would not constitute "unrelated business income" within the meaning of section 422 of the Internal Revenue Code; or

And on page 31, line 3, to change the subsection number from "(5)" to "(6)."

The amendment was agreed to.

The next amendment was, on page 31, after line 5, to strike out:

(b) Cost allowance: In the case of a contractor or subcontractor who produces an agricultural product and processes, refines, or treats such a product beyond the first form or state provided in paragraph (2) of subsection (a), or who produces the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, and processes, refines, or treats such a product beyond the first commercially marketable state provided in paragraph (3) of subsection (a) or, in the case of timber, beyond the form of logs, the Board shall prescribe such regulations as may be necessary to give the contractor or subcontractor a cost allowance substantially equivalent to the amount which would have been realized by such contractor or subcontractor if he had sold the product in the form or state provided in paragraph (2) or (3) of subsection (a), or, in the case of timber, in the form of logs.

And in lieu thereof, to insert the following:

(b) Cost allowance: In the case of a contractor or subcontractor who produces or acquires the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, and processes, refines, or treats such a product to and beyond the first form or state suitable for industrial use, or who produces or acquires an agricultural product and processes, refines, or treats such a product to and beyond the first form or state in which it is customarily sold or in which it

has an established market, the Board shall prescribe such regulations as may be necessary to give such contractor or subcontractor a cost allowance substantially equivalent to the amount which would have been realized by such contractor or subcontractor if he had sold such product at such first form or state. Notwithstanding any other provisions of this title, there shall be excluded from consideration in determining whether or not a contractor or subcontractor has received or accrued excessive profits that portion of the profits, derived from receipts and accruals subject to the provisions of this title, attributable to the increment in value of the excess inventory. For the purposes of this subsection the term "excess inventory" means inventory of products, hereinbefore described in this subsection, acquired by the contractor or subcontractor in the form or at the state in which contracts for such products on hand or on contract would be exempted from this title by subsection (a) (2) or (3) of this section, which is in excess of the inventory reasonably necessary to fulfill existing contracts or orders. That portion of the profits, derived from receipts and accruals subject to the provisions of this title, attributable to the increment in value of the excess inventory, and the method of excluding such portion of profits from consideration in determining whether or not the contractor or subcontractor has received or accrued excessive profits, shall be determined in accordance with regulations prescribed by the Board.

(c) Partial mandatory exemption for durable productive equipment:

(1) In general: The provisions of this title shall not apply to receipts or accruals from subcontracts for durable productive equipment, except to that part of such receipts or accruals which bears the same ratio to the total of such receipts or accruals as 5 years bears to the average useful life of such equipment as set forth in Bulletin F of the Bureau of Internal Revenue (1942 edition) or, if an average useful life is not so set forth, then as estimated by the Board.

(2) Definitions: For the purpose of this subsection—

(A) the term "durable productive equipment" means machinery, tools, or other equipment which does not become a part of an end product, or of an article incorporated therein, and which has an average useful life of more than 5 years; and

(B) the term "subcontracts for durable productive equipment" does not include subcontracts where the purchaser of such durable productive equipment has acquired such equipment for the account of the Government, but includes pool orders and similar commitments placed in the first instance by a department or other agency of the Government when title to the equipment is transferred on delivery thereof or within 1 year thereafter to a contractor or subcontractor.

The amendment was agreed to.

The next amendment was, on page 34, line 9, to change the letter of the subparagraph from "(c)" to "(d)."

Mr. JOHNSON of Colorado. Mr. President, before we leave section 106 I should like to make a very brief statement.

It is my understanding that although section 106 of the bill exempts certain public utilities and common carriers, including those engaged in water transportation under specific statutes, from renegotiation, such exemption is not intended to limit the authority of the Board to exempt certain other carriers, particularly water carriers, under the permissive provisions of the bill.

Mr. GEORGE. Mr. President, that statement is correct, and I am very glad to concur in the statement. The matter was discussed in committee when the bill was under consideration.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The next amendment was, on page 35, after line 18, to strike out:

(a) Creation of board: There is hereby created, as an independent establishment in the executive branch of the Government, a Renegotiation Board to be composed of five members appointed by the President, by and with the advice and consent of the Senate. Not less than three members of the Board shall be appointed from civilian life. The President shall designate one member to serve as chairman of the Board. Each member shall receive compensation at the rate of \$12,500 per annum. No member shall engage in any business, vocation, or employment other than that as a member of the Board. The Board shall have a seal which shall be judicially recognized.

And in lieu thereof to insert:

(a) Creation of board: There is hereby created, as an independent establishment in the executive branch of the Government, a Renegotiation Board to be composed of five members to be appointed by and with the advice and consent of the Senate; one by the President, to serve as Chairman; one each by the Secretaries of the Army, the Navy, and the Air Force, respectively, subject to the approval of the Secretary of Defense; and one by the Administrator of General Services. The Chairman shall receive compensation at the rate of \$17,500 per annum, and the other members shall receive compensation at the rate of \$15,000 per annum. The Board shall have a seal which shall be judicially noticed.

The amendment was agreed to.

The next amendment was, on page 36, line 19, after the word "be", to strike out "at such place as may be determined from time to time by the Board" and insert "in the District of Columbia."

The amendment was agreed to.

The next amendment was, on page 37, line 6, after the word "to", to strike out "the civil service laws and", and in line 7, after the numerals "1949", to insert "(but without regard to the civil-service laws and regulations)."

The amendment was agreed to.

The next amendment was, on page 38, line 3, after the word "Board," to insert "But no function, power, or duty shall be delegated or redelegated to any person pursuant to this subsection or subsection (f) unless the Board has determined that such person is responsible directly to the Board or to the person making such delegation or redelegation and is not engaged on behalf of any department in the making of contracts for the procurement of supplies or services, or in the supervision of such activity; and any delegation or redelegation of any function, power, or duty pursuant to this subsection or subsection (f) shall be revoked by the person making such delegation or redelegation (or by the Board if made by it) if the Board shall at any time thereafter determine that the person to whom has been delegated or redelegated such function, power, or duty is not responsible directly to the Board or to the person making such delegation or redelegation or is engaged on behalf of any Department in the

making of contracts for the procurement of supplies or services, or in the supervision of such activity."

Mr. GEORGE. Mr. President, I send to the desk an amendment to the committee amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Georgia will be stated.

The CHIEF CLERK. On page 38, line 6, after the word "person" it is proposed to insert "(other than the secretary of a department)"; and on page 38, line 15, after the word "person" it is proposed to insert "(other than the secretary of a department)."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 42, line 21, after the word "within", to strike out "five" and insert "ten", and on page 43, line 3, after the word "of", to strike out "6" and insert "4."

The amendment was agreed to.

The next amendment was, on page 43, line 3, after the words "rate of" to strike out "6" and insert "4."

The amendment was agreed to.

The next amendment was, on page 44, after line 10, to strike out:

Nothing in title 18, United States Code, sections 281 and 283, or in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99) shall be deemed to prevent any person by reason of service prior to January 1, 1954, in performance of duties or functions required by this act, from acting as counsel, agent, or attorney for prosecuting any claim against the United States: *Provided*, That such person shall not prosecute any claim against the United States (1) involving any subject matter directly connected with which such person was so employed, or (2) during the period such person is engaged in employment in a department or the Board.

And in lieu thereof to insert:

Nothing in title 18, United States Code, sections 281 and 283, or in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99) shall be deemed to prevent any person by reason of service in a department or the Board during the period (or a part thereof) beginning July 1, 1950, and ending December 31, 1953, from acting as counsel, agent, or attorney for prosecuting any claim against the United States: *Provided*, That such person shall not prosecute any claim against the United States (1) involving any subject matter directly connected with which such person was so employed, or (2) during the period such person is engaged in employment in a department or the Board.

The amendment was agreed to.

The PRESIDING OFFICER. That completes the committee amendments.

Mr. GEORGE. Mr. President, it will be recalled that when section 103 on page 5 of the bill was read for an amendment the question arose upon the inquiry of the distinguished Senator from South Dakota [Mr. CASE], who has been very interested in renegotiation contract legislation in the House through the years, whether or not the Panama Canal was included or covered by virtue of any of the renegotiation acts. The information I now have is that if we wish to cover the Panama Canal and the head of the Panama Canal in subsection (b), amendments should be made. I therefore offer

the amendment that, after the comma in line 10 on page 5 the words "Panama Canal" be inserted in subsection (a).

The PRESIDING OFFICER. Without objection, the amendment is adopted.

Mr. GEORGE. And to perfect it, I offer an amendment, after the comma in line 19 in subsection (b) to insert "the head of the Panama Canal."

Mr. CASE. Mr. President, I wish to thank the distinguished Senator from Georgia for his consideration in going into this matter. It came to my attention in a case involving several million dollars for the third set of locks in the Panama Canal subject, and I think it is wise now to take care of it. I thank the Senator for the consideration he has given the matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the senior Senator from Georgia [Mr. GEORGE].

The amendment was agreed to.

Mr. McCLELLAN. Mr. President, have all the committee amendments been agreed to?

The PRESIDING OFFICER. All the committee amendments have been agreed to.

Mr. McCLELLAN. Mr. President, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 2, line 13, after the word "contracts", it is proposed to insert " , having a direct and immediate connection with the national defense."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the senior Senator from Arkansas.

The amendment was agreed to.

Mr. McCLELLAN. Mr. President, I offer another amendment to the same effect.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 2, line 19, after the word "contracts", it is proposed to insert " , having a direct and immediate connection with the national defense."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the senior Senator from Arkansas.

The amendment was agreed to.

Mr. GEORGE. Mr. President, we agreed to take these amendments to conference because they are in accordance with our interpretation of the bill. We are sure that it will be administered as provided in these amendments, but in order to give double assurance, if the amendments themselves are in conference, we will have the opportunity of writing in the conference report a definite, explicit statement.

Mr. BUTLER of Nebraska. Mr. President, I send to the desk an amendment which I offer and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 31, after line 2, it is proposed to insert the following:

(6) any contract that a department awarded as a result of competitive bidding

for the construction of any building, structure, improvement, or facility; or.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nebraska.

Mr. MORSE. Mr. President, I should like to have an explanation of the amendment.

Mr. BUTLER of Nebraska. Mr. President, I think perhaps the chairman of the committee will agree to take the amendment to conference. The amendment I have just offered would exempt from the renegotiation process any construction contract awarded on the basis of competitive bids.

This provision was contained in the Renegotiation Act of 1944 and also the Renegotiation Act of 1948. It is designed to preserve the competitive bidding method of construction contracts. Without this amendment, competitive bidding will not mean anything because no bidder will be assured of receiving the amount he bid even though he wins the award and properly completes the construction job. As a result, all bidders may have a tendency to bid too high on the theory that they must protect themselves against any possible risk of loss.

This section worked well during the previous renegotiation legislation and I believe we should continue it in this measure.

Mr. GEORGE. Mr. President, this is what is known as one of the mandatory exemptions under the World War II Renegotiation Act. I have no objection to taking the amendment to conference for consideration. The House left it out as a mandatory exemption. Perhaps it can be fully recognized under the permissive exemptions in the bill. I have no objection to taking the amendment to conference.

Mr. CASE. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. CASE. If the amendment is to go to conference it occurs to me that it might be desirable to consider whether or not a distinction should be made between contracts which are operated by contractors with their own equipment and tools, and those in connection with which tools are supplied by the Government under some of the provisions for expediting production. There is a vast difference when dealing with profits from contracts in connection with which the contractor uses his own capital and his own equipment, and those in connection with which he uses capital and equipment of the Government. In fact it was that difficulty which led to renegotiation in the first place, because a straight percentage tax law did not make it possible to draw a distinction between those two kinds of operators.

It is impossible for me to make any suggestion at this time as to what would be the effect of the language of this amendment, but I hope that if the amendment goes to conference, the conference will take into consideration the possibility of protecting the Government's right to renegotiate where the contractor is using Government-supplied capital or Government-supplied equipment.

Mr. GEORGE. That question would be open in conference, and I am very glad to have the Senator's suggestion. I can assure him that if the House will be disposed to accept the amendment, we will be glad to present that viewpoint.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the senior Senator from Nebraska [Mr. BUTLER].

The amendment was agreed to.

PRINTING OF DOCUMENT ENTITLED "BASIC DATA RELATING TO ENERGY RESOURCES"—REPORTS OF A COMMITTEE

Mr. HAYDEN. Mr. President, will the Senator from Georgia yield?

Mr. GEORGE. I yield.

Mr. HAYDEN. Mr. President, from the Committee on Rules and Administration, I report unanimously four resolutions, and I ask for immediate consideration of the resolutions.

I send to the desk Senate Resolution 61, upon which I ask for immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The Chief Clerk read the resolution, as follows:

Resolved, That the committee print entitled "Basic Data Relating to Energy Resources," printed for the use of the Senate Committee on Interior and Insular Affairs, be printed as a Senate document.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 61), submitted by Mr. O'MAHONEY on February 1, 1951, was considered and agreed to.

EXTENSION OF TIME FOR INVESTIGATION OF PROBLEMS RELATING TO AIRLINE INDUSTRY (REPT. NO. 115)

Mr. HAYDEN. Mr. President, from the Committee on Rules and Administration, I report favorably with an amendment Senate Resolution 55, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated for the information of the Senate.

The Chief Clerk read the resolution, as follows:

Resolved, That the time within which the Committee on Interstate and Foreign Commerce may complete the investigation authorized by Senate Resolution 50, Eighty-first Congress, agreed to April 11, 1949, as continued by Senate Resolution 308, Eighty-first Congress, agreed to July 27, 1950, hereby is extended to June 30, 1951.

The amendment of the Committee on Rules and Administration was, in line 6, to strike out "January 31, 1952," proposed by the Committee on Interstate and Foreign Commerce, and insert "June 30, 1951."

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. LANGER. Mr. President, what is the amendment?

Mr. HAYDEN. The amendment shortens the date for the report to June 30.

The PRESIDING OFFICER. It will be impossible to consider the amendment

until permission is given for consideration of the resolution.

Mr. HAYDEN. The resolution appropriates no money. It simply allows the Committee on Interstate and Foreign Commerce until June 30, 1951, to submit the report.

Mr. LANGER. Mr. President, will the Senator yield for a question?

Mr. HAYDEN. I yield.

Mr. LANGER. Does this matter relate to the committee that is investigating the postal rates for the air lines?

Mr. HAYDEN. That is a part of it.

Mr. LANGER. Then I wish to object, because that job belongs to the Committee on Post Office and Civil Service. In view of the La Follette-Monroney Act, for the life of me, Mr. President, I cannot understand why the Committee on Interstate and Foreign Commerce persists in studying the ocean rates and the airline rates in regard to postal matters. The Interstate and Foreign Commerce Committee has absolutely no jurisdiction over such matters.

Mr. HAYDEN. Mr. President, if the Senator will permit, let me state that the investigation has been made. This resolution will extend until June 30, the time within which the committee may complete its work and may ascertain the facts on which it will report. Without such permission the committee will have no further time in which to ascertain the facts on which it is to report.

Mr. LANGER. I understand that the Interstate and Foreign Commerce Committee has spent more than \$100,000 in making the investigation; and the committee did that in spite of the fact that members of the Committee on Post Office and Civil Service stood on the floor of the Senate and protested time and time again.

There would be just as much sense in having the Committee on Post Office and Civil Service investigate some interstate commerce problem as there would be in having the Committee on Interstate and Foreign Commerce take from the Committee on Post Office and Civil Service its jurisdiction over a matter dealing with postal rates.

If the measure now under discussion simply involves the making of a report, and if no more money will be spent—

Mr. HAYDEN. That is all it proposes.

Mr. LANGER. Then I shall not object.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. HAYDEN. I yield.

Mr. BREWSTER. As a member of the Committee on Interstate and Foreign Commerce, I should like to point out to the Senator from North Dakota, with whose viewpoint I have great sympathy, that the origin of this matter lies in the fact that in the early days of the air mail, practically the entire amount paid to the airlines was a subsidy, but was very unjustly charged to the Post Office Department, because the receipts from the air mail at the time were negligible.

It is quite true that as time has passed the air mail has built up tremendously, so that what proportion of this expenditure involves a subsidy, a matter which is within the jurisdiction of the Com-

mittee on Interstate and Foreign Commerce, and what proportion of it relates to the carrying of the mails, is the \$64 question which must be answered.

It might well be that both committees could join in this work; but the Committee on Interstate and Foreign Commerce certainly has jurisdiction in this matter because of its interstate aspects. Certainly the Committee on Post Office and Civil Service has jurisdiction over postal matters. We are seeking to determine what that aspect of the matter is, in order that the Post Office Department shall not be charged any more than is appropriately due for the carrying of the mail.

Mr. LANGER. Mr. President, will the Senator yield?

Mr. HAYDEN. I yield.

Mr. LANGER. Let me say to the Senator from Maine that 3 years ago, when this matter was up for consideration, it was entirely in the hands of the Committee on Post Office and Civil Service. The Committee on Interstate and Foreign Commerce had nothing to do with it.

The La Follette-Monroney Congressional Reorganization Act provides that the Committee on Post Office and Civil Service shall have jurisdiction of the postal service generally, including the railway mail service. Under those circumstances, I cannot understand how another committee can claim to have jurisdiction over this matter and can spend \$100,000 in investigating postal rates, when at this time, at least, a committee is organized and ready, and has been for the past few years, to investigate such questions, and has always investigated postal matters, without ever meeting with another committee or writing to another committee.

However, at the very time when the committee did this, the distinguished Senator from Maryland [Mr. O'CONNOR] had introduced a bill calling for an investigation of the ocean mail rates and the air mail rates, and the senior Senator from North Dakota had a resolution calling for an investigation of the railway mail rates. Representatives of the postal service came before our committee. At first they refused to bring in certain documents. Then the distinguished Senator from West Virginia [Mr. NEELY] said to them, "Gentlemen, if you do not bring these documents and records, we will subpoena them."

All of a sudden, the first thing we knew, after some months went by, the distinguished Senator from Colorado [Mr. JOHNSON] rose in the Senate and began to talk about railway rates and postal rates and a proposed investigation to be made by his committee. We objected at that time, as my friend will remember, to jurisdiction by the Interstate and Foreign Commerce Committee over postal rates, so far as they are concerned.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. HAYDEN. I yield.

Mr. JOHNSON of Colorado. I thank the Senator for yielding.

Mr. President, as the Senator from North Dakota will realize, the entire matter is much larger than the question

of postal rates. It is a very much larger question when we talk about the money we have been paying to the airlines, both the domestic airlines and the airlines engaged in international trade. That is much larger than the question of postal rates. If postal rates were the only issue involved, this matter would be a very simple one to settle. However, that is not the case at all.

When the Congress enacted the original law with respect to assisting the airlines to get started, Congress included in that law provisions for the making of payments to the airlines for rendering that service. Those payments amounted to far more than the postal rates involved. That is where the problem we now are facing arose.

For instance, at this very moment there are claims with the Civil Aeronautics Board for \$225,000,000 for back pay. Senators may say that some of that is postal pay, and I suppose some of it is. However, postal payments and subsidy payments and all the other payments due the airlines are mixed together. Our committee has been trying to separate them and break them down, so as to separate the payments for postal rates from the other portions of the moneys which we pay to the airlines. We are trying to handle the matter of setting up those amounts in such a way that the Appropriations Committees of the Congress will completely understand the entire case.

Mr. LANGER. Mr. President, I wish to say that the distinguished Senator from Colorado is a very wise and very smart and very intelligent gentleman.

Mr. JOHNSON of Colorado. I thank the Senator.

Mr. LANGER. I should like to read to him the portion of the La Follette-Monroney Congressional Reorganization Act which defines the duties of the Committee on Interstate and Foreign Commerce, and then I should like to have the Senator from Colorado tell me where in this entire portion of the La Follette-Monroney Act any jurisdiction whatever is given to the Committee on Interstate and Foreign Commerce to investigate postal rates.

I read now from the La Follette-Monroney Act:

(j). Committee on Interstate and Foreign Commerce, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Interstate and foreign commerce generally.
2. Regulation of interstate railroads, busses, trucks, and pipelines.
3. Communication by telephone, telegraph, radio, and television.
4. Civil aeronautics.

Mr. BREWSTER. Mr. President, I ask the Senator to wait a moment at that point. At that portion, the words "civil aeronautics" appear. What is the meaning of that?

Mr. LANGER. I shall take that matter up in a moment.

Mr. BREWSTER. Very well.

Mr. LANGER. I read further from the La Follette-Monroney Congressional Reorganization Act, as it pertains to the

jurisdiction of the Committee on Interstate and Foreign Commerce:

5. Merchant marine generally.
6. Registering and licensing of vessels and small boats.
7. Navigation and the laws relating thereto, including pilotage.
8. Rules and international arrangements to prevent collisions at sea.
9. Merchant marine officers and seamen.
10. Measures relating to the regulation of common carriers by water and to the inspection of merchant marine vessels, lights and signals, life-saving equipment, and fire protection on such vessels.
11. Coast and Geodetic Survey.
12. The Coast Guard, including life-saving service, lighthouses, lightships, and ocean derelicts.
13. The United States Coast Guard and Merchant Marine Academies.
14. Weather Bureau.
15. Except as provided in paragraph (c), the Panama Canal and interoceanic canals generally.
16. Inland waterways.
17. Fisheries and wildlife, including research, restoration, refuges, and conservation.
18. Bureau of Standards including standardization of weights and measures and the metric system.

The Senator from Maine claims, I believe, that this matter comes under civil aeronautics; does he?

Mr. BREWSTER. Certainly it comes under civil aeronautics.

Mr. LANGER. Does the Senator claim that anything having to do with postal matters or postal rates comes under civil aeronautics?

Mr. BREWSTER. Civil aeronautics in this country have been developed largely under payments made under what is known as the subsidy and under the acts developed by the Committee on Interstate and Foreign Commerce, of which the Senator from Colorado [Mr. JOHNSON] is chairman.

Mr. President, how did it happen that the Committee on Post Office and Civil Service did not consider the original legislation dealing with this matter? It was because the Committee on Interstate and Foreign Commerce has always considered matters dealing with aeronautics.

Mr. LANGER. In other words, simply because an airplane may have carried some spoiled meat, that matter would be taken from the Committee on Agriculture and Forestry, the committee handling agricultural matters, and would be given to the Committee on Interstate and Foreign Commerce. Is that correct?

Mr. BREWSTER. No; but inasmuch as 90 percent of the payments we are discussing are for transportation by aircraft, it is not unusual that the matter would not be handled by the committee of which the able Senator from North Dakota is chairman.

Mr. LANGER. Does the Senator from Maine assert that the Committee on Interstate and Foreign Commerce should consider all matters relating to pay for the carrying of mails, including railway mail service; and relating to ocean mail, pneumatic-tube service, and everything else in this category except post roads?

Mr. BREWSTER. I think that if the Post Office Department had requested an investigation of why so much postal

money was being diverted to the air lines, the Committee or Post Office and Civil Service would have had complete jurisdiction; but I do not think that excludes the Committee on Interstate and Foreign Commerce from the exercise of a similar jurisdiction.

Mr. LANGER. That is exactly what the Committee on Post Office and Civil Service did. The junior Senator from Maryland at that time—the senior Senator now—offered a resolution dealing with exactly that proposition, and it was pending at the very time the Committee on Interstate and Foreign Commerce took jurisdiction of the matter.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. HAYDEN. Mr. President, if I may, I should like to point out that this investigation has been practically completed. The resolution calls for the expenditure of no money. It merely provides that the committee shall have until June 30 to complete its report. There should be no objection to that.

Mr. LANGER. There is no use objecting to it now. The matter is settled. The horse is gone, the door is locked. Is that correct?

Mr. BREWSTER. That is correct. The PRESIDING OFFICER. The resolution reported by the Senator from Arizona amends the original resolution by restoring the original date, does it not?

Mr. HAYDEN. That is all it does. The PRESIDING OFFICER. Without objection, the resolution is considered, and, without objection, the amendment is agreed to, and the resolution, as amended, is agreed to.

INVESTIGATING OF PROBLEMS RELATING TO DOMESTIC BANKING AND CREDIT, INTERNATIONAL BANKING, AND DEFENSE HOUSING (REPT. NO. 116)

Mr. HAYDEN. Mr. President, from the Committee on Rules and Administration, I report favorably, without amendment, Senate Resolution 64, and ask unanimous consent for its present consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution (S. Res. 64), which had been reported from the Committee on Rules and Administration, with an amendment, to strike out all after the resolving clause and insert an amendment in the nature of a substitute, as follows:

Resolved, That the Committee on Banking and Currency, or any duly authorized subcommittee thereof, is authorized and directed during the period from February 16, 1951, to January 31, 1952, to make a full and complete study and investigation of such problems as it may deem proper relating to (1) Federal Reserve matters, domestic banking policies, and credit generally, (2) international banking and policies of the Export-Import Bank, and (3) construction of housing in the present national emergency, including permanent and temporary defense housing.

Sec. 2. For the purposes of this resolution, the committee, or any duly authorized

subcommittee thereof, is authorized during the sessions, recesses, and adjourned periods of the Eighty-second Congress, until January 31, 1952, (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis such technical, clerical, and other assistants as it deems advisable; and (3) with the consent of the head of the department or agency concerned, to utilize the services, information, facilities, and personnel of any of the departments or agencies of the Government.

Sec. 3. Expenses of the committee under this resolution, which shall not exceed \$50,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Mr. HAYDEN. The only explanation I have for the amendment is that the reference to small business has been eliminated from the resolution, because there is a Special Committee on Small Business. Of course, the Committee on Banking and Currency still retains its jurisdiction with respect to legislation affecting small business, but the investigative feature of it is transferred to the other committee.

The PRESIDING OFFICER. Without objection, the amendment in the nature of a substitute is agreed to. The question is on agreeing to the resolution as amended.

The resolution, as amended, was agreed to.

The title was amended so as to read: "Resolution to investigate problems relating to domestic banking and credit, international banking, and defense housing."

FEDERAL MANPOWER POLICY (REPT. NO. 114)

Mr. HAYDEN. Mr. President, I submit the final resolution. It is from the Committee on Rules and Administration. I report favorably, with amendments, Senate Resolution 53, and ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The clerk will read the resolution.

The Chief Clerk read the resolution (S. Res. 53), as follows:

Resolved, That the Committee on Post Office and Civil Service, or any duly authorized subcommittee thereof, is authorized and directed during the Eighty-second Congress to conduct a full and complete study and investigation with respect to the personnel needs and practices of the various departments and agencies of the Government, with a view to the formulation of policies for the most effective utilization of civilian personnel by such departments and agencies during the period of the national emergency. The committee shall report to the Senate at the earliest practicable date the results of its study and investigation together with such recommendations for necessary legislation as it may deem desirable.

Sec. 2. For the purposes of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to employ on a temporary basis such technical, clerical, and other assistants as it deems advisable. The expenses of the committee under this resolution, which shall not exceed \$50,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. LANGER. I object. There is pending a bill on the same subject. The Committee on Interstate and Foreign Commerce has no jurisdiction to investigate personnel. Under the resolution, that committee would have complete charge of the Federal civil service generally. What right has the Committee on Interstate and Foreign Commerce to investigate Post Office personnel? I certainly object to the resolution. The people affected are under civil service, are they not?

Mr. HAYDEN. This is a resolution from the Committee on Post Office and Civil Service.

Mr. LANGER. Then, I am for it. [Laughter.]

The PRESIDING OFFICER. Without objection, the resolution will be considered. The clerk will state the amendments.

The CHIEF CLERK. On page 1, line 3, it is proposed to strike out "Eighty-second Congress", insert "a period, ending January 31, 1952."

The amendment was agreed to.

The next amendment was, on page 2, line 2, after the word "date", to insert "but not later than January 31, 1952."

The amendment was agreed to.

The resolution as amended was agreed to.

The PRESIDING OFFICER. Does the senior Senator from Arizona have another resolution?

Mr. HAYDEN. I have no more.

REORGANIZATION PLAN NO. 1 OF 1951, RELATING TO RECONSTRUCTION FINANCE CORPORATION—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 60)

The PRESIDING OFFICER (Mr. MONROE in the chair) laid before the Senate a message from the President of the United States, which was read by the legislative clerk, and, with an accompanying paper, referred to the Committee on Expenditures in the Executive Departments.

(For the President's message, see today's proceedings of the House of Representatives, pp. 1419-1420.)

RENEGOTIATION ACT OF 1951

The Senate resumed the consideration of the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes.

Mr. MORSE. Mr. President, I send to the desk an amendment to House bill 1724, and ask that it be read.

The PRESIDING OFFICER. The clerk will read the amendment offered by the Senator from Oregon.

The CHIEF CLERK. On page 43, after line 5, it is proposed to insert:

SEC. 109. Redeterminations under the Renegotiation Act: Notwithstanding any statute of limitations or any other provision of law, upon application made within 1 year after the date of enactment of this title, the Board shall make a redetermination de novo of any proceedings under the Renegotiation Act of any contract or subcontract in any case in which the amendment to section (a) (4) (B) of such act made by subsection (d) of section 201 of this act is applicable.

And on page 46, after line 11, it is proposed to insert:

(d) Amendment of the Renegotiation Act: Section (a) (4) (B) of the Renegotiation Act is amended by inserting before the period at the end thereof a semicolon and the following: "and there shall be allowed as an item of cost in any fiscal year, subject to the regulations of the Board, any excess in the preceding fiscal year of costs paid or incurred with respect to receipts or accruals subject to the provisions of this section over the amount of such receipts or accruals." The amendment made by this subsection shall be effective as of the date of enactment of the Renegotiation Act.

Mr. MORSE. Mr. President, by way of explanation of this amendment let me say that I have drafted it with the assistance of the legislative counsel within the last 30 minutes. I have no question about the fact that the language itself may need some revision and rewriting in conference, if the Senator from Georgia and the committee will permit the amendment to go to conference. My principal objective is to get this problem into conference, to see whether greater justice than the language of the present law permits, cannot be done in certain hardship cases.

I desire to make very clear, because my good friend from South Dakota (Mr. Case) raised this point earlier this afternoon, that I do not seek or propose by this amendment to create a new body or to create a new appellate court, but only to vest in the Renegotiation Board itself and the Court of Tax Appeals the same authority, power, and discretion over hardship cases which accrued during World War II that they will have under the language of the new act as to new cases which may arise in the future.

It seems to me, to use an analogy, that we will be confronted in the future with some potentially sick cases for which we prescribe the serum of this new law, but at the same time we have before our very eyes some existing sick cases arising from World War II which deserve a little injection of the same serum of wise discretion, and that is what my amendment provides.

In my judgment, the problem is clear. I am perfectly willing to place the justice of my request in the hands of the Senate conferees, to see whether in conference, upon the basis of this language, there cannot be worked out an agreement which will permit the exercise of the kind of discretion in handling hardship cases growing out of World War II which I think equity entitles those cases to receive.

I should like to ask the Senator from Georgia whether he will permit this language to go to conference.

Mr. GEORGE. As I have indicated to the Senator, I am willing to take the amendment to conference. The great difficulty, of course, is that, in giving this remedial fight in a pending case, probably there will be insistent efforts made to reopen all other cases which have been concluded by agreements between the contracting parties and the Government, or which may have been settled by decisions or orders. That is the principal

objection to the proposal as urged by the renegotiation board. But I am quite willing to take the amendment to conference, look into the general equity of the matter, and see whether it could be properly restricted to open or pending cases.

Mr. CASE. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. CASE. What is proposed to be done by the amendment offered by the Senator from Oregon is rather broad. The amendment starts out with the language:

Notwithstanding any statutory limitations or any other provision of law, upon application made within 1 year after the date of enactment of this title, the board shall make a redetermination de novo of any proceedings under the Renegotiation Act of any contract or subcontract in any case in which the amendment * * * is applicable.

The Renegotiation Act originated as an amendment to the Sixth Supplement Defense Appropriation Act, in April 1942. It was made retroactive to cover contracts entered into during that defense war effort. It was amended by the Act of 1943 after very exhaustive hearings in both the House and Senate.

It continued in operation until after the shooting in World War II had stopped. Phases of it were reenacted in 1948. The broad field which was covered up to the end of 1946 resulted in the Government securing in excess of \$10,000,000,000 in new recoveries, to say nothing of the changes which were made in respect to prices in new contracts. Now to make it possible to reopen all those cases and to bring about a redetermination de novo, or proceeding in cases where the recoveries alone exceeded \$10,000,000,000, is to open a pretty wide gate.

I am aware of the argument which the Senator from Oregon presented with respect to the particular provision he would make for letting these cases go to review, but it occurs to me that since the amendment in 1943 provided the tax court as a board of appeals where the action of the Price Adjustment Board could be reviewed, and in view of the fact that the World War II Renegotiation Act was amended at various times, and the determinations under the law were made in such a large amount, the amendment would certainly open the door to a great deal of new work for somebody.

While the amendment may go to conference, I sincerely hope that the conferees will give careful study to the broad scope of the language, and resolve the doubts in favor of the original purposes of renegotiation, namely, to prevent contractors from making exorbitant profits because of defense contracts which were entered into in a hurry.

The Senator from Georgia and the Senator from Oregon, I am sure, know that at a time when the Government was proceeding with a defense effort in a hurry, renegotiation was conceived as a method whereby contracts could be let by letters of intent or on a short negotiation basis so that the work could go

forward, but permitting the Government to recover in cases where an audit of the costs showed that the contemplated price was excessive, or where it was demonstrated that the contractor was making excessive profits by reason of the fact that he was using Government capital and Government equipment.

We conceived of renegotiation as a method of expediting the war and the defense effort, but with a protection for the Government and a protection for the people against excessive war profits.

I certainly hope the amendment will not be agreed to by the conferees in any form that will make it possible to reopen the door to the whole field of war contracts with which we were familiar in World War II.

Mr. MORSE. Mr. President, I may say, in reply to the Senator from South Dakota, that I do not believe he and I are so far apart as he seems to think we are. I am not offering a wide gate, I am offering a very narrow turnstile, by which each person who is admitted to the turnstile is subjected to the very narrow application of an amendment which applies only to that language in the proposed new bill which takes the form of an amendment to section 84 (b) of the act.

I say to the Senator that the cases will be relatively few; they are not going to involve the billions of dollars of contracts which I think the Senator from South Dakota fears, and the provision will apply in only those few cases where it can be shown that injury would follow refusal on the part of the Government to take into account the losses suffered by an individual contractor because of the development of some unforeseen condition over which he had no control, and the responsibility for which in many instances rested with the Government itself.

In the negotiation procedure we do not have to worry about the big contractors, so far as the application of the law to what happened in World War II is concerned. In the renegotiation proceedings the big contractors were taken care of. The injustices fell upon the little fellows, many of them subcontractors, many of them independent contractors. The cases which I have investigated were those of very small contractors who could not afford losses which the Government forced upon them, without at least being given credit for those losses against the small profits they made in the preceding year.

What we are trying to do now is merely to say to the Department of Justice and the Tax Court that in settling these hardship cases they can exercise the discretion which the law specifically grants to them in regard to cases arising under the new defense effort.

To members of the Department of Justice who told me that some such discretion ought to be made available to them in respect to these hardship cases, I have said at considerable length, that the Government is doing the kind of an injustice which two businessmen would not be guilty of if they submitted their disputes to the kind of process of settlement contemplated in the renegotiation proceeding.

I have in mind a case which arose in my State, and, as I said to the Senator from South Dakota in a personal conversation some moments ago, my attention to the inequity and the injustice to which I am addressing myself today arose out of a case in my State. But I have been advised by the Department of Justice officials, and by those of the renegotiation office, that there are a good many cases in the same category.

I have sat with representatives of the Department of Justice, and they have said that if they had the kind of discretion proposed these cases would be settled on a much more equitable basis than is now possible, because what they are now saying to the small contractors is, "We will compromise with you, but we will compromise on the basis of what you would get out of a bankruptcy proceeding, because that is all we can do under the act."

I have in mind a case in the Tax Court in which the court said to Government counsel, "We are not going to take this case, but will send it back to see if we cannot get a more equitable basis on which to settle it."

I merely say, Mr. President, that when any agency of Government is confronted with factual situations in which the Department of Justice officials and the Tax Court officials say that there ought to be some language which would permit the working of justice in a case, it is the duty of the Congress to see that an amendment is adopted which gives them the wise discretion which makes that possible.

I would certainly agree with the Senator from South Dakota that it is not wise to open up the World War II cases for renegotiation, save and except in the limited bracket of cases in which the committee itself recognizes a field for future action. If the law is made to apply to future cases, then I say it is a rule of equity which should be extended to present hardship cases. I do not believe there will be as many cases as the Senator fears, but the principle should be extended to whatever past cases would have been benefited by its application. If it is a sound principle of justice, it is the duty of the Government to correct the wrongs it has committed, because if the Government has not been applying equitable principles to past cases, it should get busy and do so. I am willing to leave the renegotiating power to the Tax Court, which had the power to apply the old Renegotiation Act.

Mr. CASE. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. I yield to the Senator from South Dakota.

Mr. CASE. I am somewhat bothered by the language which the Senator uses in his amendment. It seems to me it goes further than what the Senator has described in his discussion.

The amendment provides that the Board shall make a redetermination de novo of any proceedings, notwithstanding any statute of limitations or any other provision of law, upon application made within 1 year after the date of enactment. It seems to me that the amendment goes further than making it

a matter which would come within the discretion of the Board or Tax Court.

Mr. MORSE. I think the Senator must read the language beyond the point at which he stops. The language continues:

The Board shall make a redetermination de novo of any proceedings under the Renegotiation Act of any contract or subcontract in any case in which the amendment to section (a) (4) (B) of such act made by subsection (d) of section 201 of this act is applicable.

I have read the narrowing language which creates what I call the turnstile.

Mr. CASE. Yes; that is the turnstile. However, it seems to me that the language makes it incumbent upon the court to review any case which any contractor may wish to bring forward, in order to determine whether it may come through the turnstile or gate, but does not leave with the court discretion as to whether, from its own review of the case, further consideration would be warranted.

Mr. MORSE. I say most respectfully to the Senator from South Dakota that the broad language in the first part of the paragraph is necessary to give the Renegotiation Board and the Court jurisdiction in the first instance. It gives it de novo jurisdiction, which must be given in the first instance. It is necessary to put limitations on what the Board may review. Such limitation is provided in the last part of the amendment. It applies only in cases in which a party can show that the facts in the case can be fitted into the pattern of the language. Because of the informality of hearings, as the Senator knows, it could be done by administrative rules and regulations of the Board, which would permit a person to file a brief or memorandum, the Board saying to him, "We will judge in the first instance whether you come under the language of the amendment on the basis of your written application." If they decide it does not, the case is thrown out. If they decide that a prima facie case has been made which justifies further review, they can grant a hearing.

I wish the RECORD to be perfectly clear that I do not intend to give a party the right to a formal hearing of record, but only that a party has a right to say, "I think, under the language of the provision, the facts in my case call for the Renegotiation Board to take a look at the written papers which I wish to file with the Board in order to see whether or not my case comes under the language." Such action could be almost ministerial.

Mr. CASE. Mr. President, I do not care to prolong the discussion. It seems to me that if the bill is to go to conference the subject should be carefully considered. I think it should be pointed out that in such cases as those to which the Senator from Oregon alludes in all probability the carry-forward provision of the tax laws have already been applied, and that in many of such cases the losses have been considered in the application of the excess-profits-tax law.

Renegotiation started before we had an excess-profits-tax law in World War II. After the excess-profits-tax law was passed the price-adjustment boards took

into consideration the effect of the law and the taxes which were imposed thereunder. It should not be true that very many cases would benefit by the provision, even if it were applied. Because of the fact that the carry-forward provisions were contained in the tax laws subsequently enacted, because contractors presumably received the benefit of them, and also because the price-adjustment boards were given wide discretion, and took into consideration the financial status of the companies, it should not be true that very many cases would benefit by the provision.

I certainly hope that the language which may be finally adopted will not open the gate and throw upon the Tax Court or the renegotiation board the vast burden of work of going over all the cases which were renegotiated and in which settlements were finally attained and agreed to by the Government and the contractors.

Mr. MORSE. I think the Senator from South Dakota and the junior Senator from Oregon are completely together as to the objectives sought to be attained. I agree with him that the cases are going to be very few.

So that there will be no misunderstanding in the RECORD as to my intent, let me assure the Senator from South Dakota that I do not intend that any benefits shall accrue to any contractor who has been accorded equity through the application of the tax laws, or through any other benefit made available to him by the Government. I am only insisting that we should be fair and see to it that equity is done to a citizen who has suffered as the result of a hardship case in renegotiation, in which the officials of the Government have not been able to exercise the wise discretion which they tell us ought to be exercised in all fairness to the citizen.

Such cases will be very few in number. I have no objection to making any change in the language of the amendment which would accomplish the end. All I am saying is I am satisfied that there are cases in which gross injustice is being done, and I think such injustice should be rectified. That is the purpose and intent of my amendment. I am confident that in conference the language can be perfected so that my intent can be carried out.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. LANGER. Mr. President, I offer an amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 27, line 5, after the word "title", it is proposed to strike out:

If the aggregate of such amounts received or accrued during the fiscal year under such subcontracts is more than \$25,000, no determination of excessive profits to be eliminated for such year with respect to such subcontracts shall be in an amount greater than the amount by which such aggregate exceeds \$25,000.

And to insert in lieu thereof:

The aggregate of such amounts received or accrued during the fiscal year or any succeeding years under such subcontracts shall not be more than \$25,000, and no determination of excessive profits to be eliminated for such year with respect to such subcontracts shall be in an amount greater than that amount.

Mr. LANGER. Mr. President, this morning we discussed the subject of the so-called 5 percenters, the fellows who get an almost unlimited fee for obtaining a contract for another person. In the past years the practice has been a disgrace. Men who claim to have influence, particularly men who formerly worked in a department, approach a contractor and say to him, "If you hire me and I get a subcontract for you, it should be worth \$50,000 to me."

I remember that in one committee hearing it was brought out that one such person was paid \$100,000 in connection with the sale of some ships. The hearing was presided over by the distinguished senior Senator from North Carolina [Mr. HOEY]. I think there ought to be in our Government some kind of board which would get in contact with subcontractors by advertising contracts, and not make it necessary for a man who wants a contract with the Government to pay 5 percent of it to someone for getting it.

The distinguished Senator from Georgia said this morning that the \$25,000 would not be limited to any one year. In other words, a man could procure a subcontract for another and get \$25,000 for it in 1951, \$25,000 in 1952, and so on. My amendment provides:

The aggregate of such amounts received or accrued during the fiscal year or any succeeding years under such subcontracts shall not exceed the sum of \$25,000, and no determination of excess profits to be eliminated for such a year with respect to such subcontracts shall be in an amount greater than that amount.

As a matter of fact, I do not believe that there should be paid even \$25,000 to any individual for getting a subcontract for some one else. I believe that the Government ought to see to it that small concerns all over the country which want subcontracts have somewhere to go, within the Government, to obtain information with respect to contracts. A contractor in North Carolina, Kentucky, or Montana should be able to say to a Government agency, "I am equipped to do a certain kind of work." Why should a subcontractor be obliged to pay \$25,000, or 5 percent, to anyone?

Mr. President, I sincerely hope that the amendment may be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Dakota [Mr. LANGER].

Mr. GEORGE. Mr. President, with all due respect to the distinguished Senator from North Dakota, I think it would be a mistake to adopt his amendment, because there are many instances of engineers residing in Washington following up contracts. For example, in connection with a shipbuilding contract or any other long-term contract, it actually pays the contractor to have a represent-

ative here from year to year rather than to send a capable man from his own factory or plant. He would lose the time necessary to come here and keep matters going smoothly.

As to whether or not there should be an absolute prohibition against paying anyone for procuring a contract from the Government for another, that is another question. Such individuals have been described as the "5 percenters." It seems to me that a limitation of \$25,000 under the terms of the bill is reasonable. The House placed that provision in the bill and the Senate committee did not disturb it.

I hope the Senator from North Dakota will not press his amendment, but will rather seek to amend the substantive law when some measure outlawing such agreements is presented.

Mr. LANGER. Mr. President, earlier in the day the distinguished Senator from Georgia said that under such an arrangement as has been described, the agent could collect \$25,000 in 1 year from the subcontractor, and then collect another \$25,000 next year, and the following year, and so forth, ad infinitum, so long as the contract lasted. Why should a shipbuilder have a representative here drawing \$25,000 a year for obtaining a subcontract?

Mr. GEORGE. Mr. President, the Senator misunderstood me or I misunderstood him. Such a payment as has been described could be made only once in a fiscal year. There is a limitation of \$25,000 for the fiscal year. Of course, a contract might extend over a period of 2 or 3 years, and payment might be made for subsequent service—not for procuring the contract, but for servicing the contract, so to speak. It might be a very sensible arrangement for the principal contractor to pay the subcontractor, or a competent engineer or accountant in Washington, to keep his business straight for him.

I doubt if there could be any payment over a period of 3 or 4 or 5 years, because under the terms of the bill if the money paid or earned or accrued within a fiscal year is more than \$25,000, the contract is subject to renegotiation. That ends the matter. It would be very difficult to conceive of a fee paid for procuring a contract which would not all come within the same fiscal year.

Mr. LANGER. Mr. President, will the Senator further yield?

Mr. GEORGE. I yield.

Mr. LANGER. Perhaps the Senator saw the same advertisement which I read about a month ago in the newspapers of Washington, in which a certain individual offered to pay 5 percent to any person who would get him a subcontract. That advertisement was issued by an American citizen in order to get business from the Government. Does not the Senator believe that the Federal Government ought to be able to furnish the necessary information to all the small subcontractors in the country, saying to them, "If you want a subcontract, come to this department and we will see if we cannot help you get it, without paying 5 percent to anyone"?

Mr. GEORGE. I fully agree with the Senator. If I had my way, I would require every principal contractor to specify what he himself expected to do under the contract, and what material and articles he expected to procure from standard manufacturers, as well as what work he expected to let to subcontractors. That information should be published in the Federal Register, or otherwise. A contractor ought to be required to open bids on every article he expects to get from subcontractors. The bids should be publicly advertised. The principal contractor himself ought to be held responsible for failure to give such notice and provide the opportunity for subcontractors to bid.

Nearly all these contracts go to contractors who do much of the work themselves and furnish many of the articles and materials. However, some of the work is usually sublet. It is in connection with the subcontracts that most of the difficulty occurs. The subcontractor does not know whom to approach. He does not know how to go about it. He does not know what office to visit. However, if the principal contractor were required to itemize the articles which he expected to obtain through subcontracts, and the service to be rendered by subcontractors, and that information were made available to subcontractors through public notice, with the requirement that they send their bids directly to the principal contractor, it seems to me that the problem could be handled without anyone having to pay unnecessary money.

When it comes to servicing a contract through a competent engineer, architect, or accountant, after the contract has been obtained, I can see that a limitation of \$25,000 a year on all the contracts of a contractor—he might have a dozen or more—is not an unreasonable limitation. Such a payment under those circumstances is not exorbitant or unreasonable. I can also see how such an arrangement might be very helpful to the principal contractor, because of saving him the expense of sending someone to Washington who might not have as much knowledge as someone already on the ground.

Mr. LANGER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. LANGER. My distinguished friend and I agree entirely. I wonder if an amendment along that line could not be drafted and placed in the bill.

Mr. GEORGE. I do not think it would have any part in this bill. This bill poses to do only one thing, and that is to look into the profits and earnings by the contractor or subcontractor, and determine whether or not they are in excess of a fair charge for the work done and the services and materials furnished. If the expenditure seemed fair and equitable the Board could say so. If it were excessive, under the terms of the bill machinery would be established whereby a part of the profit might be taken away, and the profit reduced to the point where it seemed to the Board fair and equitable for the entire service performed by the contractor during the fiscal year.

Mr. LANGER. Am I correct in my understanding that there is nothing in the bill which would stop the so-called five percenters?

Mr. GEORGE. Nothing except the limitation in the bill.

Mr. LANGER. The only provision in the bill is that if they make more than \$25,000, the contract will be renegotiated.

Mr. GEORGE. The contracts will be renegotiated if they make over \$25,000 in the aggregate on all their business for the year.

Mr. LANGER. That is correct.

Mr. GEORGE. They cannot stop with one contract.

Mr. LANGER. I understand.

Mr. GEORGE. But they are subject to renegotiation if they make more than \$25,000.

Mr. LANGER. Yes.

Mr. GEORGE. In view of the history of this legislation and the outrageous cases which were developed through investigation, I am quite sure that the Renegotiation Board would not allow contractors or subcontractors to keep excessive profits. It could hardly be said that a whole year's work, in which a contractor may have obtained four or five or six or seven different contracts, would be excessively compensated for if the total he could receive were only \$25,000.

Mr. LANGER. May I ask a final question of the Senator? The Senator says the pending bill is not the proper place for the provision proposed by my amendment.

Mr. GEORGE. Yes. I had hoped that the distinguished Senator from North Carolina [Mr. HOEY], who has conducted an investigation of this very subject, might recommend some legislation before his special committee is discharged, and I believe if he should do so, such legislation would be the proper vehicle to deal with the matter the Senator from North Dakota has in mind.

Mr. LANGER. I thank the very distinguished Senator from Georgia.

Mr. GEORGE. I hope the Senator from North Dakota will not insist on his amendment.

Mr. LANGER. Will not the Senator take it to conference?

Mr. GEORGE. I cannot deceive the Senator. I do not think it would remain in conference, because I am sure the House Members are satisfied with what they have done. The Senate committee accepted the bill on that basis. I think it is better to deal with the subject matter of the Senator's amendment in separate legislation.

Mr. LANGER. I should like the amendment to go to conference or else secure a vote on it, because I feel so strongly about it, these persons who have looted the Government.

Mr. GEORGE. I have not seen the Senator's amendment. May we have the amendment stated?

The PRESIDING OFFICER. The amendment will again be stated.

The LEGISLATIVE CLERK. On page 27, line 5, it is proposed to insert the following:

The aggregate of such amounts received or accrued during the fiscal year or any succeeding years under such subcontracts shall

not be more than \$25,000 and no determination of excessive profits to be eliminated for such year with respect to such subcontracts shall be in amount greater than that amount.

Mr. GEORGE. Mr. President, I should like to accept the amendment but I do not think it would be wise to do so. I am perfectly willing for the Senate to vote upon the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Dakota [Mr. LANGER].

Mr. JOHNSON of Colorado. Mr. President, will the Senator from North Dakota yield for a question?

Mr. LANGER. I yield.

Mr. JOHNSON of Colorado. I have been complaining to the Procurement Office of the Army engineers about this very question, and complaining very bitterly about it, because it is an outrage for anyone to go around selling political influence. That is exactly what some do. I have talked with the Army engineers about it, and they have told me that they do their best not to deal at all with any individuals of this kind and that when a man comes in and claims he is representing someone, they make the contract directly with the party who is going to fulfill the contract. But they say that oftentimes a lawyer comes in representing a client, and nothing can be done about that, because everyone has a right to employ a lawyer. So lawyers come here who may in reality be 5 percenters. Then I am advised another arrangement exists. Oftentimes a firm which has a contract makes some engineer a vice president of the company, and he comes here and, of course, has a perfect right to represent the company.

I am sure what the Senator from North Dakota is trying to deal with, and the thing I should like to see dealt with, is the 5 percenter who holds himself out to the contractors as being able to secure contracts for them, and when contractors talk to him he tells them he has political influence. I think it is a disgrace to the Nation and to the Government that men have been able to peddle influence. I think it is a disgrace that any contractor thinks he can buy influence. I think it is a disgrace that anyone should attempt to sell it. I hope the chairman of the special committee, the Senator from North Carolina [Mr. HOEY], will report to the Senate proposed legislation on this subject. It is a situation which needs to be corrected, and Congress should take action concerning it.

I must agree with the chairman of the committee that the pending bill is devised for another purpose entirely. I do not think it is possible to deal with this subject adequately in the bill which is now before the Senate; but it ought to be dealt with by the House and by the Senate.

Mr. LANGER. I may say to my distinguished friend that the bill deals with defense contracts. It is drawn up specifically for that purpose. Why can we not specify in the bill that we are not going to allow any 5 percent fees for procuring defense contracts?

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. LANGER. I yield.

Mr. JOHNSON of Colorado. The bill deals with the renegotiation of defense contracts.

Mr. LANGER. That is correct.

Mr. JOHNSON of Colorado. Not with defense contracts primarily, but with their renegotiation. It is a far different matter from dealing with contracts.

Mr. LANGER. Whether it deals with renegotiation or deals with the contracts themselves, this is a proper place, I believe, to settle once and for all the matter of the 5 percent fees for procuring defense contracts. Therefore I do not want to withdraw my amendment. The Senate can vote it down, of course. But I think this is a very fine place to find out whether we are going to pay the 5 percent or whether we are not.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from North Dakota [Mr. LANGER]. [Putting the question.] The yeas appear to have it—

Mr. LANGER. Mr. President, I ask for a division.

On a division Mr. LANGER's amendment was rejected.

Mr. DOUGLAS. Mr. President, I move to strike out the language beginning on line 9, page 34, continuing and including line 17 on page 35. The motion is to strike out the permissive exemptions under the renegotiation bill.

Mr. President, this is an extremely important matter. Literally billions of dollars are involved in the matter of renegotiation. We have already, under the somewhat complicated amendments proposed by the committee, tentatively adopted certain mandatory exemptions, and we now come to permissive exemptions, which are five in number. I specifically should like to invite the attention of the Senate to clause (3) at the top of page 35, namely, that the Board is authorized, in its discretion, to exempt from some or all of the provisions of this title, "Any contract or subcontract or performance thereunder during a specified period or periods if, in the opinion of the Board, the provisions of the contract are otherwise adequate to prevent excessive profits."

In other words, complete power is given to the Renegotiation Board, three of whose members are to be drawn from the armed services, to exempt any contract from renegotiation if in its judgment the provisions are sufficient to prevent excessive profits. These are tremendous discretionary powers which are granted to this Board.

The matter was gone into quite thoroughly in the Eightieth Congress by a committee headed by the distinguished senior Senator from Maine [Mr. BREWSTER]. I hold in my hand a copy of his report. That committee recommended that all mandatory and permissive exemptions in the future contracts should be abolished, and that there should be a renegotiation of all contracts where there was an annual volume of more than \$100,000, or, perhaps, in modern equivalents, \$200,000; and there were cited in support of that view the fact that in

World War II, under the permissive exemptions which had been granted—in that case I believe by the procurement officers—excessively large profits were reported to have been enjoyed, although it was hard to find out about them, because the committee did not have access to the records of the companies, and there was some difficulty in getting the material from the procurement officers of the armed services.

Mr. President, if we allow this exemption, I can tell quite well what will happen: The Board will be in the position of using its own discretion in the granting of hundreds of millions of dollars in favors to war contractors; and the skies will be black with expeditors, lawyers, and 5 percenters flying to Washington to join the hordes who already are here. They will exert pressure and influence upon the Renegotiation Board to make an exemption in an individual case.

Mr. President, I was very proud to vote for the amendment proposed by the Senator from North Dakota, to try to abolish the evil of 5 percentism. I wish to say that clause 3, at the top of page 35, opens a floodgate for 5 percenters. The peddlers of influence and the fixers will swarm around Washington; and the Renegotiation Board will have great trouble in fighting them off.

When we come to the consideration of the provisions regarding the Renegotiation Board, I hope an amendment will be offered; for, Mr. President, we are putting the Renegotiation Board in an extremely difficult position. Unless its members have the character of saints and the courage of Daniel, the pressures upon them will be so great that excessive and enormous profits will be made. Even if the Board is honest, it will face pressures which will hinder honest work.

I see no reason why the floodgates should be opened in this way, with complete discretion given to the Board.

Similarly, Mr. President, I see no reason for clause 4, to authorize the Board "in its discretion to exempt from some or all of the provisions of this title (4) any contract or subcontract the renegotiation of which would jeopardize secrecy required in the public interest."

Mr. President, secrecy is not involved in the renegotiation. The secrecy referred to may be involved in the original contract. However, the profits should not be secret.

I would comment similarly in regard to the other permissive exemption provisions.

So, Mr. President, I believe we should eliminate all the permissive exemption provisions; and at the appropriate time we should limit or eliminate the mandatory exemptions, so that this renegotiation provision can be really effective.

The purposes of renegotiation, I take it, are to enable contracts to be made quickly, and yet for the Government not to be mulcted, because if the profits are large the Government can later recapture any excessive profits by means of renegotiation.

I am very glad to see on the floor the distinguished senior Senator from Maine [Mr. BREWSTER]. The conclusions I am stating now are those to which he came

in the Eightieth Congress. I think they are sound conclusions, and I am carrying out the recommendations of his committee when I move the elimination of these clauses.

Mr. President, I now suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSON of Colorado in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Green	Malone
Anderson	Hayden	Martin
Bennett	Hendrickson	Maybank
Benton	Hennings	Milikin
Brewster	Hickenlooper	Monroney
Bricker	Hill	Morse
Bridges	Hoey	Mundt
Butler, Md.	Holland	Murray
Butler, Nebr.	Humphrey	Neely
Byrd	Ives	Nixon
Capehart	Jenner	O'Connor
Carlson	Johnson, Colo.	O'Mahoney
Case	Johnson, Tex.	Robertson
Chapman	Johnston, S. C.	Russell
Clements	Kefauver	Schoeppel
Connally	Kerr	Smathers
Cordon	Kilgore	Smith, Maine
Douglas	Knowland	Smith, N. J.
Eastland	Langer	Smith, N. C.
Eaton	Lehman	Stennis
Ellender	Lodge	Taft
Ferguson	Long	Thye
Flanders	McCarran	Tobey
Frear	McClellan	Wherry
Fulbright	McFarland	Wiley
George	Magnuson	Williams

The PRESIDING OFFICER. A quorum is present.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Hawks, one of his secretaries.

RENEGOTIATION ACT OF 1951

The Senate resumed the consideration of the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes.

Mr. DOUGLAS. Mr. President, I believe the question before the Senate is my amendment to strike out that section of the bill beginning on line 9, page 34, and continuing through and including line 17 on page 35. In other words, the purpose is to eliminate the permissive exemptions from the renegotiation powers.

Mr. President, since there are a number of Senators in the Chamber now who were not present when I raised this question originally, perhaps it is not inappropriate for me to summarize some of the things I previously said.

I should like to call the especial attention of the Senate to clause 3 at the top of page 35, which gives to the Board the power to exempt any contract which in its judgment contains provisions which are adequate to prevent excessive profits. In other words, almost complete discretion is given to the Renegotiation Board to exempt any contract from renegotiation.

The purpose of the renegotiation provisions, as I understand them, is to enable Government procurement agencies to negotiate contracts rather quickly, and then, even though the terms may be disadvantageous to the Government, to have a later renegotiation so that if ex-

cessive profits are made they can be recaptured for the Government. To the degree to which this practice operated in the past war, under the direction of General Hirsch and I believe Mr. Paull, considerable sums of money were recovered for the Government.

There was also a permissive exemption in the World War II Renegotiation Act which permitted procurement officers to grant exemptions from the renegotiation clauses. Various charges were made that these permissive powers had been used rather loosely, and as a result a committee was appointed in the Eightieth Congress, under the chairmanship of the senior Senator from Maine [Mr. BREWSTER], which went into this matter quite thoroughly, and submitted a report and recommendations. It found that the administrators of the renegotiations testified that they thought very large profits were made by some concerns whose business in whole or in part was exempted from renegotiation under some of the terms of the act.

The report goes on to say:

No proof of this statement was offered.

I am informed that the armed services did not make available to the Renegotiation Board the details of costs, prices, and profits. In any event, as a result of the investigation, the committee headed by the senior Senator from Maine declared that any future renegotiation act should be improved in the following specific ways:

(A) By bringing within its operation all contractors with an annual war business exceeding \$100,000.

Such a provision is contained in the House bill.

(B) Including war contracts of all Government agencies.

(C) By eliminating all mandatory and permissive exemptions, so that all Government contractors with more than an annual business of \$100,000 are renegotiated.

I call particular attention to that provision.

It seems to have been a thorough report, and I think the conclusion is a very sensible one.

We can well imagine what would happen if the Board were given complete discretion to determine whether or not there shall be renegotiation. One concern after another would appear before the Board and say, "Our circumstances are different. The terms of our contract prevent excessive profits. Therefore we should be exempted from renegotiation."

That would be a natural result. It would be a way in which companies could try to save money. Furthermore, there will be men who will put such ideas into their heads—lawyers and expeditors, who are vulgarly known as fixers and peddlers of influence—and will suggest that that is the way to save money. The poor Board will be subjected to the most tremendous pressures conceivable. Human character would be put to a very severe test; and human character, when it deals with Government funds, tends at times to be fallible.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. DOUGLAS. I am very happy to yield.

Mr. BREWSTER. I gather that the distinction between mandatory and permissive exemptions to which the Senator now alludes is that in a mandatory case the Board is not subject to the influence which otherwise would be brought to bear in a case in which permissive authority existed.

Mr. DOUGLAS. That is correct.

Mr. BREWSTER. I gather that the Senator in his recent study of executive agencies has found out the extent to which influences of that kind have unfortunately flourished.

Mr. DOUGLAS. There is always such a danger. Even if the Board should be completely honest, it would nevertheless be subject to constant pressures for exemption which would prevent it from doing its full work.

Mr. BREWSTER. Mr. President, will the Senator yield further?

Mr. DOUGLAS. I yield.

Mr. BREWSTER. The administration of the old Renegotiation Act was for most of the time in charge of one of the most able and honest men that I think could be found for the job. I think he was in very cordial sympathy with our suggestion, in order to remove himself—I will not say from temptation—but from pressure.

Mr. DOUGLAS. Does the Senator refer to General Hirsch?

Mr. BREWSTER. Yes.

Mr. DOUGLAS. I have excerpts from the testimony of General Hirsch before the committee. I quote from his testimony the following:

The one real recommendation that I would like to make is the elimination of exemptions. That is the one recommendation I would make.

That is the recommendation of the man who dealt with renegotiations throughout World War II.

Mr. BREWSTER. Mr. President, will the Senator yield further?

Mr. DOUGLAS. I yield.

Mr. BREWSTER. He was a distinguished lawyer in Houston, Tex., who came to Washington at very great personal sacrifice to carry on the work. He is a man of the highest character and ability. His suggestions were given great weight by the committee which studied the subject at the time.

Mr. DOUGLAS. My untutored eye fails to see the reason for providing permissive exemptions. They open the door wide to possible fraud. They may lead to the Government's losing hundreds of millions of dollars, perhaps even billions of dollars. Such permissive exemptions would expose the Government to corruption and would expose Government officials to temptation. If the provisions for renegotiation are good, I do not see why such power should be granted. Mr. President, unless reply is to be made by the sponsors of the bill, I request the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Illinois [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. President, I have requested the yeas and nays.

The yeas and nays were ordered.

Mr. FERGUSON. Mr. President, in 1948 and prior thereto, the Senator from

Michigan was a member of the War Investigating Committee. As has been stated on the floor, that committee made a report on its investigation of the national defense program. It is Report No. 448, part 6, Eightieth Congress, second session. It was the final report of the committee.

After extensive hearings the question which is now before the Senate—namely, the practice of the Board's granting exemptions to certain contractors—came under study. I do not believe all the conclusions and recommendations of the War Investigating Committee on this subject have been placed in the RECORD, and I desire to do so at this time. I read from pages 234 and 235 of the report:

The committee recommends that there be no exemptions under any renegotiation. The committee believes that any further renegotiation act be improved in the following specific ways:

A. By bringing within its operation all contractors with an annual war business exceeding \$100,000.

I understand the present House bill contains the figure of \$100,000. The bill now before the Senate provides for \$500,000. Certainly \$100,000 would appear to me to be a proper contract amount for renegotiation of contracts, because the very purpose of renegotiation is to take the enormous profits, the big and unreasonable profits, out of war contracts. Obviously, the possibility of inordinate profits rises in proportion to the amounts involved.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. FERGUSON. I yield.

Mr. BREWSTER. The point to which the Senator refers was discussed in the committee. It was recognized that \$100,000 3 years ago or 4 years ago is the equivalent of \$200,000 or \$250,000 today. It was pointed out that under the operation of our conference system, in all probability the figure would be set somewhere between \$100,000 and \$500,000. Therefore, I did not press the point too strongly, recognizing the very great difference in the value of the dollar at this time.

Mr. FERGUSON. I realize that the dollar has depreciated probably 50 percent as of this time. However, I still think that the principle of renegotiated contracts should apply even though the contracts are for \$100,000. I say this because we have the case of large companies with their various subsidiaries, among which contracts are divided up. As a result some of the greatest margin of profits can come through the smaller contracts.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. FERGUSON. I yield.

Mr. AIKEN. I have been in attendance at committee hearings, and have not been in the Chamber. Can the Senator inform me whether or not the bill as reported was unanimously approved by the committee?

Mr. FERGUSON. I am not a member of the committee. I cannot tell the Senator as to that.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. FERGUSON. I yield.

Mr. BREWSTER. The committee voted unanimously to report the bill. There was some difference in the committee with respect to various provisions.

Mr. FERGUSON. The vote to report the bill did not carry with it unanimous approval of all the provisions.

Mr. BREWSTER. There were reservations, I had some.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. FERGUSON. I yield.

Mr. TAFT. The vote to report the bill was unanimous; and the vote was substantially unanimous on all amendments considered by the committee. I do not remember any serious difference.

Mr. BREWSTER. There was one amendment, which I think is the one here concerned, with respect to which there were some differences. There were only seven Members present and voting on my motion to reconsider. The vote was 4 to 3 in favor of the motion. However, I did not press it because there were six Members missing, so I would not really consider it a record vote. However, there was that division.

Mr. AIKEN. Does the Senator refer to the amendment which is affected by the proposal of the Senator from Illinois [Mr. DOUGLAS]?

Mr. BREWSTER. I do.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. FERGUSON. I yield.

Mr. GEORGE. I may say that the final vote on the bill in the committee was unanimous.

Mr. BREWSTER. I think the Senator from Georgia did not understand. I stated that the bill was unanimously reported.

Mr. GEORGE. In the case of any bill of this kind, comprising fifty-odd pages, there is bound to be some division of opinion on certain provisions.

Mr. BREWSTER. Yes.

Mr. FERGUSON. Mr. President, after a study of this question of contract renegotiations the War Investigating Committee, having in mind World War II experience, made the first recommendation to which I have referred, in relation to the floor of \$100,000.

The second recommendation was that a future renegotiation act might be improved by:

including war contracts of all Government agencies.

No exceptions were stated. All war contracts were included. When we enter into a state of mobilization and are compelled to spend billions of dollars, when contractors often do not know exactly what the cost of production will be because they have not been engaged in similar businesses, the law must be such that contracts may be renegotiated. The idea is to try to prevent excessive profits, not only through the operation of the excess-profits tax, but by means of renegotiation. Whether we are actually at war, or whether we are anticipating war, enormous profits to contractors during mobilization should not be permitted. So the recommendation was to include the war contracts of all the Government agencies. I believe that is

a very valuable part of the recommendation, and should be carried out.

Continuing with recommendations, to improve the World War II practices:

(c) By eliminating all mandatory and permissive exemptions so that all Government contractors with more than an annual business of \$100,000 are renegotiated.

The Senator from Illinois [Mr. DOUGLAS] and other Senators have mentioned on the floor the great responsibility of a renegotiating board in connection with exemptions. We can see what is likely to happen. The board cannot really tell whether or not an exemption should be made until after it has examined the contract and the profits. If a particular exemption is desired, the committee should examine the subject to determine whether or not the contract should be renegotiated. If it decides not, then it has granted an exemption, but it has done so in the particular and not in the general.

We find that on the Board there is to be a representative from each of the armed services, the Army, the Navy, and the Air Force. Under those circumstances, if they have general permissive powers they are likely to say, "Let the particular contract for this item go. I know those fellows in that department. They know this business. We have a great deal of work to do." That is what we run into when we have discretionary exemptions. No matter what we say about how honest these men are, they are going to have great difficulty in resisting pressure for exemptions. That is what General Hirsch, Chairman of the War Contracts Price Adjustment Board, referred to in his testimony before the War Investigating Committee on January 31, 1947. His testimony is set forth at page 23255 of part 29 of the hearings before the Special Committee to Investigate the National Defense of the United States.

General Hirsch was emphatic in opposing the discretionary exemption. There was no doubt about it. I should like to read into the RECORD a portion of the testimony. The Senator from Michigan was questioning the witness:

Senator FERGUSON. Now, this may have been one of the cases, which I think we ought to cover here this morning if possible, of the exemptions, where the Government made a contract where they did not renegotiate. Was there any standard set up as to why they made contracts not requiring renegotiation?

General HIRSCH. The Senator has put his finger right upon one thing, which, based on the question of the chairman, I should like to make response to. Those of us in renegotiation do not believe that there should be in the law the privilege of granting any such exemptions.

Senator FERGUSON. But there was.

General HIRSCH. That was entirely apart from our operations.

Senator FERGUSON. But after the law provided for those exemptions, were there standards established so that they would only be granted in cases anticipated under the law?

General HIRSCH. I am sure, sir, that the procurement authorities in those cases felt that they were operating correctly, but I cannot answer for them because you see we did not grant those specific contract exemptions.

The chairman was the Senator from Maine [Mr. BREWSTER]. I continue reading from the testimony.

The CHAIRMAN. Now, as I understand, you are firmly of the opinion, and those associated with you in renegotiation, that any such discretionary powers—

General HIRSCH. In procurement, sir.

The CHAIRMAN. That it is not wise.

General HIRSCH. That is our opinion, sir.

The CHAIRMAN. That is based on your observation and experience of the last 4 years?

General HIRSCH. It definitely is.

On page 23270, General Hirsch further testified:

The CHAIRMAN. We will appreciate whatever report you may want to furnish, and then we will want to ask you in later. I think the benefit of your recommendations on the over-all picture in the event of another emergency is what this committee wants to direct its attention primarily to, and you may want to take a month or two in order to think that over.

General HIRSCH. I have been thinking it over, and the one real recommendation that I would like to make is the elimination of exemptions. That is the one recommendation that I would make.

Senator FERGUSON. That is any exemptions?

General HIRSCH. Yes; because there ought to be enough incentive with the kind of profit that the ones in renegotiation would accord, that ought to be enough incentive for a contractor to do his work well.

The CHAIRMAN. You mean over the \$100,000?

General HIRSCH. Yes, because under that it is too small.

I should also like to call the attention of the Senate to hearings of the Senate War Investigating Committee, held in October 1947. Mr. John R. Paull, Chairman of the War Contracts Price Adjustment Board, who was successor to General Hirsch, likewise opposed authority in the act to grant permissive exemption from renegotiation. I refer the Senate to part 42 of the hearings of the Special Committee Investigating the National Defense Program, page 25499.

Mr. President, some items in the current budget will be eliminated, but it will contain more than \$60,000,000,000 for defense. It seems to me that all contracts entered into under that tremendous sum of money should be subject to renegotiation. So far as is humanly possible any enormous profits should be taken out of these contracts. There is no justification whatsoever for enormous profits taken out of this mobilization emergency.

As a matter of fact, I think we all agree that there should be renegotiation of defense contracts. The House passed this legislation unanimously. There are, however some who believe the Board should be allowed to make determination as to which contracts should be renegotiated, as well as what profits should be taken out of them, and what profits should be allowed while keeping contractors from making unreasonable profits.

If certain types of contracts are not to be renegotiated, it is equivalent to saying to the Board "The amount of profit a man makes is of no importance at all. The only thing of importance is the kind of contract that can be made. If you can get a certain type of contract the Board will give you an exemption.

You can make any amount of profit. We are not concerned with it. We are not going to renegotiate that type of contract."

Obviously, this is not the purpose of a renegotiation act, and it appears to me that is not a good basis for writing a renegotiation act. Yet that is substantially what we are doing when we provide those mandatory and permissive exemptions. Mr. President, I favor the recommendations made by the War Investigating Committee that all war contracts—we now call them preparedness contracts—above \$100,000 should be renegotiated, and that there should not be any exemptions granted by the Board, either mandatory or permissive.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. FERGUSON. I yield.

Mr. AIKEN. The Senator from Michigan has evidently made a very thorough study of the bill. I wonder if he would express his opinion of subsection (d) on page 4, line 19, which provides:

Notwithstanding any agreement to the contrary, the profit-limitation provisions of the act of March 27, 1934 (48 Stat. 503, 505), as amended and supplemented—

And then the language of the amendment of the committee—

and of section 505 (b) of the Merchant Marine Act, 1936, as amended and supplemented—

And then follows the original language of the bill—

shall not apply to any contract or subcontract if any of the receipts or accruals therefrom are subject to this title.

Mr. FERGUSON. I understand that to refer to the 10 percent profit provisions in other legislation, which would now be repealed.

Mr. GEORGE. Let me say that under the Vinson-Trammell Act and under the Merchant Marine Act the profits were limited by percentage.

Mr. AIKEN. To 10 percent.

Mr. GEORGE. Yes. Here there is no limit on what the Board may permit the contractor to keep or what the Board may take away from the contractor. It does not work on the percentage basis at all. It would be impossible to negotiate contracts which were begun under the Vinson-Trammell Act, but were not completed, and which might come under the provisions of this measure. From January 1 of this year the contracts would come under the provisions of this measure, and all accruals or payments made thereafter would be renegotiable.

Mr. FERGUSON. Mr. President, I yield the floor so the Senator from Georgia may answer further.

Mr. GEORGE. They could not be renegotiated until the Vinson-Trammell Act was repealed.

Mr. AIKEN. May I ask the Senator from Georgia a question, since the Senator from Michigan has yielded the floor? This is a suspension, is it not, of the 10 percent profit limitation of the Merchant Marine Act?

Mr. GEORGE. Yes.

Mr. AIKEN. If a shipbuilding company accepted a contract and should

make 40-percent profit—it probably would not make so great a profit, but suppose it should—would the contract then be subject to renegotiation under the proposed law?

Mr. GEORGE. It would be if payments were made or accruals occurred after January 1, 1951.

Mr. AIKEN. It would really be subject to renegotiation?

Mr. GEORGE. Yes; it would. Therefore, there would be a conflict. Under the proposed law percentages do not control. There would be a question whether the profit was unfair or excessive.

Mr. AIKEN. I am not questioning the provision. I simply wanted to know its meaning.

Mr. ROBERTSON obtained the floor.

Mr. LANGER. Mr. President, will the Senator from Virginia yield?

Mr. ROBERTSON. I yield.

Mr. LANGER. I should like to ask a question of the distinguished Senator from Vermont. In response to a question the Senator from Vermont asked of the Senator from Georgia, the latter said that the shipbuilding contract the Senator from Vermont mentioned would be subject to renegotiation, but it is true, is it not, that the Board could exempt the shipbuilding contract unless the pending amendment should be adopted?

Mr. AIKEN. The Senator from Vermont was seeking information. I do not know that I am in a position to answer the question asked by the Senator from North Dakota. But on hurriedly reading the exemptions which would be permitted, and which were referred to by the Senator from Illinois [Mr. DOUGLAS], it would appear that a very wide variety of contracts would be exempted from renegotiation. Almost too wide an exemption is provided.

Mr. ROBERTSON. Mr. President, I wish to make a few comments on the pending bill and on the pending amendment to strike out all the exemptions to be found on pages 34 and 35 of the printed bill.

House bill 1724, a bill to provide for the renegotiation of war contracts, furnishes a much needed companion piece to the legislation which we have already enacted authorizing substantial expenditures of money for defense. I assume that all of us fully concur in the statement just made by the distinguished Senator from Michigan (Mr. FERGUSON), that if we are entering upon a period when \$50,000,000,000 will be expended—I believe he said the sum may reach \$60,000,000,000—we, of course, must have renegotiation of the tremendous war contracts. There should be no argument at all about the fundamental necessity of legislation of this kind. But before I have finished my brief comment, I desire to call attention to the fact that one of the most unfortunate developments of the mid-period of the Twentieth century is the growing, almost to the point of universality, of distrust. Apparently we have lost faith in ourselves, faith in our fellow men, and many, no doubt, have lost faith in God.

If that be true, namely, that the moral standard of those in public life today

is deteriorating, as someone remarked to me in the cloakroom this morning—it is a reflection upon all the people of the United States, not merely upon those in the Government.

Mr. DOUGLAS. Mr. President, will the Senator yield at this point for a question?

Mr. ROBERTSON. I yield for a question.

Mr. DOUGLAS. As a profound Biblical student, is not the Senator from Virginia impressed with the part of the Lord's Prayer which says:

Lead us not into temptation.

Mr. ROBERTSON. I am impressed with all parts of the Lord's Prayer, including the part—

And deliver us from evil.

Mr. President, I desire to point out the evil of the Senator's amendment, if I may. [Laughter.]

I say that in the last war the Board, which was not nearly what this Board is expected to be, saved \$10,000,000, in excess profits, by means of recapturing those profits; and no one knows how much prices were reduced as a result of the renegotiation of those contracts. If we can trust this Board to renegotiate the major portion of \$50,000,000,000 or \$60,000,000,000 a year of defense contracts, and if we can trust it to do equal justice as between the contractor, the Government, and the taxpayers, certainly we can trust the Board to exercise less discretion than that which we provide for in this bill, and at least the discretion which we gave to the agency which renegotiated the contracts of the last war. If we do not have sufficient confidence in the Board, if we have so little confidence in it that we are inclined to say to it, "You cannot exempt perishable farm products, you cannot exempt prices fixed by regulatory bodies you cannot exempt 30-day contracts, and you cannot exempt some of the other things which may be found to be included in clause 3, on page 35," upon which the distinguished Senator from Illinois has specifically commented, then, Mr. President, the best thing the Senator can do is not to vote for the bill at all, because if he does not have confidence that the members of the Board will be high-type men, zealous and honest, he will be putting the necks of our businessmen in a noose, on the one hand, if he votes for this bill.

O, how well I remember the bitter criticism of the prototype of this bill when we first considered it during World War II. It was criticized as being un-American, as being tyrannical, as providing for star-chamber proceedings against American businessmen. Those were the charges which were made against the bill, and they were charges which a great many Republican Members of the Congress felt could be sustained. They did not want any part in putting business into a strait-jacket of that kind.

However, Mr. President, now it seems that we cannot get businessmen into any kind of a strait-jacket.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield briefly for a question.

Mr. BREWSTER. In the first place, does the Senator understand that this measure does not affect farm products? From what the Senator has said, I think he is under a misapprehension in that respect. This measure does not affect farm products at all.

Mr. ROBERTSON. As I understand, the Senator from Illinois has offered an amendment to strike out the exemptions on pages 34 and 35.

Mr. BREWSTER. Only the permissive exemptions.

Mr. DOUGLAS. I would strike out the permissive exemptions on pages 34 and 35.

Mr. ROBERTSON. Yes; and I am talking about the permissive exemptions. On page 34 we find that farm products constitute a permissive exemption which the Senator from Illinois proposes to strike out, as I have said.

Now I wish to proceed briefly with my other comments.

Mr. BREWSTER. No mention is made of farm products on pages 34 and 35, so far as I know. At the top of page 34 there is a continuation of the definitions.

Mr. ROBERTSON. Let me ask a question of the distinguished Senator from Maine. The Government is going to buy potatoes. Are potatoes a perishable product or not?

Mr. BREWSTER. Potatoes are a perishable product.

Mr. ROBERTSON. Are potatoes a farm product?

Mr. BREWSTER. Yes.

Mr. ROBERTSON. This portion of the bill says the Board cannot exempt perishable products. In such case, the Board cannot exempt potatoes.

Similarly, is butter a farm product, and is it perishable?

Mr. BREWSTER. The Senator from Virginia evidently has not read the mandatory exemptions. I would be in favor of striking out many of the mandatory exemptions; and farm products are included under the mandatory exemptions, along with oil products, mineral products, and other commodities of that kind.

I suggest that the Senator from Virginia would pay the greatest possible tribute to the Board, which he has so greatly extolled, which operated during the last war if he would accept the advice of the Chairman of that Board, General Hirsch, who said we should eliminate the exemptions.

Mr. ROBERTSON. The Board did a good job, but not so good a job as it could have done if it had had the kind of regulation which I recommended on this floor last August; and it was contemplated in connection with this very bill. My distinguished friend, General Maurice Hirsch, of Houston, Tex., was referring to permissive exemptions by these agencies. The distinguished Senator from Maine [Mr. BREWSTER] and the distinguished Senator from Michigan [Mr. FERGUSON] now are trying to tie up those exemptions with a new agency, one which General Hirsch did not have dur-

ing the last war, but which I strongly recommended last August, and which I wish to commend the House and the Senate for providing in this very bill, if I can reach that part of my remarks.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. TAFT. First let me say that I am not opposing the Senator from Virginia; I wish to reenforce what he is saying. I begin with that introduction.

As a matter of fact, the objection which always has been made to any bill on this subject is that it leaves absolutely in the discretion of the Board the determination of what is an excessive profit. No standard is provided. There can be no standard for the determination of what are excessive profits. So this Board would have perfectly unlimited discretion.

Mr. ROBERTSON. There can be no doubt about that.

Mr. TAFT. The Board would have unlimited discretion in deciding whether a businessman should pay back \$1 or \$100,000,000 under such a provision. Consequently, the permissive discretion is a very small part of the discretion given to the Board.

Mr. ROBERTSON. The Senator from Ohio has very nearly covered the point I was trying to make, namely, that the discretion given in the permissive exemptions is not a circumstance as compared to the discretion the Board will have in determining that a businessman has made \$100,000 of excessive profits, when the Board should have determined that he had made \$1,000,000 of excessive profits, or vice versa. In this measure there is no guide or means of determination in that connection; and in that respect there will be nothing to aid the Board, except its ability and its patriotism, which will be the only things to guarantee how the members of the Board will perform in carrying out their duties under the provisions of this measure.

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. FERGUSON. I think there is a great deal of difference between giving the Board the discretion to determine the amount of profit to be allowed in cases in which the Board actually goes over such contracts and the work done under them, and so forth, and finally determines the proper amount of profit, as compared to giving the members of the Board the discretion to say—before they even look into the amount of the profit made, "We exempt this contract; we will not even look into it, regardless of whether a 1,000-percent profit or a 1-percent profit was made."

To my mind, those questions are entirely different. In the one case, the Board has to examine the operations under the contract and has to determine what is a fair profit in that connection. That is the essence and the whole meaning of renegotiation. It is an entirely different proposition than to say: "We exempt that contract without looking into it, regardless of how much profit has been made under it."

Mr. ROBERTSON. Mr. President, I am sorry that I cannot agree with the distinguished Senator from Michigan. After all, discretion is discretion. We must not assume that the Board will shut its eyes and, without knowing anything about what is involved, will blindly say, "This contract is not to be renegotiated." If the Board would do that, we would be sunk before we started with this measure, as I understand it.

I shall state my understanding of what the committee intended to do, so far as I know. Unfortunately, I no longer have the privilege of sitting in on the writing of bills of this character, involving a subject in which I am very much interested, and I love it. I did not intend to speak for more than 5 or 6 minutes this evening; I simply wished to praise in a general way the work of the committee which considered the bill.

Mr. President, I say that all we seek to do by means of this bill will be a nullity if we do not have high-type men as members of the Board, and especially if we do not have a high-type man as chairman of the Board, for this Board is not to be merely another purchasing agent with friends. That was a weakness, and in that connection there was the type of exemption about which General Hirsch complained. I know about that, for I had many contacts with him. He is a wonderfully fine man, and one of the ablest on this subject that I know of in the United States.

Mr. BREWSTER. Then the Senator from Virginia had better accept his advice.

Mr. ROBERTSON. The agencies say, in this connection, "we will not exempt so and so and so and so." But this is an entirely different matter from the other, and we can trust the Board to pass on these permissive exemptions if, as the distinguished Senator from Ohio implied, we can trust them to do the big job of ascertaining how much in the way of excessive profits has been involved in a given contract.

Mr. LEHMAN. Mr. President, will the Senator yield for a question?

Mr. ROBERTSON. I yield.

Mr. LEHMAN. It seems to me that we must not overlook the fact that in normal times substantially every contract, whether awarded by the Federal Government or by a State government, is subject to competitive bidding, and that is a sound procedure. It should be that way. It has stood the test of time. But in a period of emergency such as the one through which we are now passing, it is, of course, impossible, without incurring great delay, to follow that long established policy. We therefore negotiate contracts in many cases rather than subject them to competitive bidding. But we do it with confidence, because we have had the assurance—and we today have the assurance—that every contract will be subject to renegotiation, and that if in the interests, of speed we have entered into a contract on which abnormal profits are made, that will be disclosed in the appraisal of the contract when it comes up for renegotiation. But under this permissive exemption it is proposed that we do away with the

scrutiny of many bills and that we do away with that scrutiny purely by the discretion and on the discretion of the Board. For example, on page 35, we read:

(3) Any contract or subcontract or performance thereunder during a specified period or periods if, in the opinion of the Board, the provisions of the contract are otherwise adequate to prevent excessive profits—

Mr. ROBERTSON. Mr. President, with all due deference to the Senator from New York the Senator from Illinois has already read that provision. I yielded for a question, and if the Senator would not mind, will he save his speech until I have finished my brief remarks?

Mr. LEHMAN. I shall conclude my speech by asking a question: How is it possible for the Board to determine whether an excessive profit is permitted to a manufacturer, unless it scrutinizes the contract with the degree of care which could come only through the process of renegotiation?

Mr. ROBERTSON. By carrying out the provisions contained in the last two lines relating to the permissive exemption, namely, "If, in the opinion of the Board, the provisions of the contract are otherwise adequate." It is necessary for the Board to find that the provisions of the contract are otherwise adequate to prevent excessive profit, or else it cannot grant the permissive exemption under this provision.

The purpose of this permissive exemption is not to weight down a five-man board, which has to renegotiate something like \$50,000,000,000 or \$60,000,000,000 worth of contracts a year, with every little minor detail which might be involved in all the ramifications of the Government's purchasing system.

Is it thought that anything is to be gained by striking out these provisions, and by tying the hands of the Board, requiring it to go laboriously through every contract and possibly finding \$5 or \$10, and saying, "Well, no particular excess profits are involved, but we have passed on it. We have spent 2 weeks on it, and now we get around to a \$10,000,000,000 contract, or else we wind up the year with only about one-half of our work done; but we are going to carry out the mandate of Congress. Nothing shall escape the fine grist, the way our mill grinds"?

Mr. TAFT. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. TAFT. The Senator is aware of the fact, is he not, that the Board, up to this time, 5 years after the end of the late war, has handled only half the applications under section 722, regarding war contracts? In other words, the volume of business was so great that the last war's business is not yet finished, although the Board did an efficient job in performing its work.

Mr. ROBERTSON. That is absolutely true, and, moreover, there remain from the late war in excess of 20,000 cases, involving more than \$5,000,000,000 of excess profits, which have not been passed on yet.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. ROBERTSON. I do not have time, Mr. President, to become involved in an elaborate debate over this particular section. I merely want to call attention to the fact that it is a more strict provision than the one enacted in the late war, and that the point made by General Hirsch has been taken care of by providing an independent Board which is to be in charge of and under the direction of an outside man. So the agencies that have been doing the purchasing and building up, of course, close friendships, and all, will not have the privilege this time, which they had the last time, of saying, "Well, we know that fellow is not going to make too much; we know he is not making too much and so we will eliminate him from renegotiation."

Mr. AIKEN. Mr. President, will the Senator yield for a question?

Mr. ROBERTSON. I yield for a brief question.

Mr. AIKEN. As I understand from the discussion between the Senator from Virginia and the Senator from Ohio, the Board has the widest latitude, with the exception of the mandatory exemptions, to determine whether a contract shall be renegotiated, and whether the Government is entitled to recover anything from such contract. That being the case—

Mr. ROBERTSON. No; I beg the Senator's pardon; I do not so understand.

Mr. AIKEN. What is the purpose of the exemption, then?

Mr. ROBERTSON. I think there should be in the bill very specific directions to renegotiate; and what the Senator from Ohio and myself had in mind was that there is no standard fixed by the bill, no guide by which to determine whether the Board could find that a contract was 1 percent, 2 percent, 5 percent, or 20 percent too high. It is a matter of their discretion in arriving at what they will call excessive war profits.

Mr. AIKEN. That being the case, the Board having the widest latitude, anyway, what is the purpose of writing the specific exemptions into the bill?

Mr. ROBERTSON. Because, if specific exemptions are not written into the bill, the Board may be tied up with minor details in which pennies are involved, and be unable to handle contracts in which millions of dollars are involved. It was to give them some little discretion to confine their activities—and they are human, and can do only so much—to the major undertaking which is involved. Perhaps the distinguished chairman of the committee will follow me, if I may finish, in about 5 or 6 minutes. The distinguished Senator from Georgia heard all the testimony, and this bill comes from the committee by unanimous report. It may be that certain members of the committee had mental reservations about some of the details, but it comes to us with the unanimous report of the committee. It represents their judgment regarding the amount of discretion which should be given to this Board.

Mr. AIKEN. Does the Senator contend that \$500,000 is a proper limit for one contract?

Mr. ROBERTSON. I am not inclined to argue that. The Senator from Virginia has no deep convictions on the subject whether it should be \$100,000, \$200,000, or \$500,000. He began primarily merely to commend the committee for getting this proposed legislation before the Senate.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. GEORGE. I call the Senator's attention to the fact that the \$500,000 limit does not apply to a single contract, but to the aggregate business of the contractor during the fiscal year.

Mr. AIKEN. I thank the Senator from Georgia. That explains the matter. What useful purpose does the permissive exemption serve, if, as has been explained on the floor of the Senate, the Board has the widest latitude in the matter?

Mr. GEORGE. It does not have the widest latitude to forgive. It has the widest possible latitude to tax, or to require a refund of money which it thinks is in excess of the fair value of the services rendered or the articles purchased.

Mr. AIKEN. The bill gives the Board the right to forgive if they feel that forgiveness is justified. Is that correct?

Mr. GEORGE. No; they are never given the right to forgive. They are given the right to exempt certain contracts from renegotiation. That has been done for various reasons. I should like to read one to the Senate, if I may.

Mr. ROBERTSON. Mr. President, I do not like to interrupt this colloquy, but I want to say a very distinguished delegation from the Philippine Islands has been waiting very patiently since 4 o'clock to confer with me. I told them that I would meet them as soon as I could finish a 10-minute speech. That was 40 minutes ago. If my distinguished colleagues will now bear with me and will not deem that I am discourteous to them but wish not to be discourteous to guests from a foreign country, I shall proceed with the few memorandums I had prepared, and will then yield the floor to those who know more about this subject than I do.

Mr. President, as I was saying a few moments ago, we have made large defense appropriations, and we may have to increase them measurably. Therefore, it is very fitting and proper that we do as we did in World War II, namely, pass a law which, if properly administered, will be calculated to prevent excessive profits being made on defense procurement.

Last August I drew the attention of the Senate to the need for this legislation, and to the provisions of the bill which at that time had just been introduced in the House. I pointed out that the enormous increases in Government buying for defense purposes would result in high costs and excessive prices and profits unless we had the protection which the Renegotiation Act provides against these evils.

Close pricing in a defense emergency is an impossibility. Most munitions contracts are made in haste. In addition, contractors are called upon to manufacture items they have never made before.

and under such circumstances costs and prices cannot be fixed properly until after some production experience has been gained. Even in the field of standard items which the contractor is already producing substantial volume increases may have a tremendous effect upon costs and profits.

During World War II the Renegotiation Act served extraordinarily well in the control of prices and profits on war procurement. It is recognized, not only throughout the Government but among businessmen as well, as the fairest and most equitable method yet devised for preventing war profiteering. More than \$10,000,000,000 of excessive profits were recovered from war contractors under this act during World War II. The specific dollar results, however, are not the greatest benefit which the act afforded. Its principal virtue was in holding down costs and prices and preventing the realization of excessive profits. Just how much effect renegotiation had on reducing the cost of World War II will never be known, but it is reasonable to suppose that its over-all benefits in procurement savings were many times the amount of money actually recovered.

As a member of the Committee on Ways and Means, I helped draft the original Renegotiation Act and the amendments thereto. Most of us, I believe, hesitated to bestow such a broad grant of power on the executive departments as that which was contained in the renegotiation law, but under the exigencies of the war emergency we had no reasonable alternative. We were obliged either to take the renegotiation law with all its possible faults, and the danger of the abuse of discretionary power, or risk the virtual certainty that tremendous amounts of excessive profits would be realized on war procurement.

Those of us who worked closely on this legislation tried our best to construct a formula for universal application, but the subject matter was so diverse and the field so complicated that we were forced ultimately to write a statute which relied on the judgment of the administrative agencies. We could but hope that this judgment would be applied under the Renegotiation Act in a fair and equitable manner. Certainly under the law there was room for abuses, and I have no doubt that mistakes were made. All informed persons, however, seem agreed that the act was administered in such a restrained and conscientious manner as to earn for its administrators the commendation of businessmen throughout the country. Persons in every walk of life have come to look upon the Renegotiation Act as a necessary corollary to a large defense budget.

It seems to me that in the present emergency we have no alternative except again to resort to the renegotiation law as the best device available for the prevention of war profiteering. An excess-profits tax alone will not accomplish the result. It is only through renegotiation that a powerful restraint can be laid upon excessive costs and prices in defense procurement. By rewarding efficiency and economy in manufacturing

operations, by penalizing excessive charges and high costs, renegotiation serves as no other available instrument can serve to induce defense contractors to produce the best goods possible at reasonable costs and prices.

The pending bill follows very closely not only the framework, but the details of the World War II Act. In addition, it contains a series of changes from the World War II law which experience has indicated are desirable under the present circumstances. It is broad in its coverage, and it should be; it encompasses the entire field of defense procurement except for the specific exemptions of contracts for certain raw materials, agricultural commodities, and certain other specified contracts. I am informed that the bill represents the views and thinking of a wide number of persons both within and without the Government who had extensive experience with the renegotiation of war contracts during World War II.

In my remarks on the floor of the Senate in August in this connection, I pointed out two inherent dangers in drafting a comprehensive renegotiation law. One of these dangers involved the granting of broad areas of exemption from the coverage of the act. It seems to me unwise for the Congress to remove large segments of business from the field of renegotiation. It is wiser, I think, if exemptions are to be granted, that this be done by administrative action by the Renegotiation Board in the light of complete factual information rather than for the Congress to write such exemptions into the act.

Those exemptions which are contained in the pending bill are pretty much the same as those provided for in the World War II statute. In general, these exemptions have been found to be reasonable and workable from the administrative point of view.

Another danger which I pointed out in my remarks last August was in connection with the formation of the Renegotiation Board itself. The bill as reported by the Committee on Finance provides for the Renegotiation Board to be composed of five members subject to confirmation by the Senate. The Chairman of the Board would be appointed by the President, and the other four members by the secretaries of the procurement agencies charged with the primary responsibility for buying defense goods. The Board, as so constituted, conforms to the suggestions which I made last August, and would, in my opinion, best serve the purposes of the Renegotiation Act. One of the primary considerations is that the Board should be independent of departmental veto or restriction upon its judgment and actions.

I understand that the provisions of the pending bill which creates the Board, contemplates that the Board will be an independent agency and will be untrammelled by the governmental departments in formulating its rules, establishing its procedures, and in the actual handling of the individual cases which will come before it. Above all, it will be free, as it must be, to achieve a uniformity of

result and application of the law as among the many cases which it will be called upon to examine.

While it is my firm conviction that the Renegotiation Board should be independent of the procurement agencies themselves, this is not to say that the Board should be completely divorced from procurement. Cooperation between procurement officials and the Board is indispensable to good administration. It seems to me that the provision of the pending legislation creating the Renegotiation Board and setting forth its duties and powers has carefully weighed these considerations, and should result in a workable and effective administrative organization.

We all realize, I am sure, that the pending bill, as did its World War II counterpart, bestows a tremendous breadth of discretionary power upon the Renegotiation Board. The dangers inherent in such broad grants of power is the price we must pay for the flexibility and scope of judgment which are necessary to achieve equity and justice in the wide variety of cases which will arise. In the last analysis, renegotiation is a matter of judgment and common sense. We can only hope that the administrators of the pending bill exercise that same wisdom and fairness and demonstrate that same devotion to duty that marked the administration of the Renegotiation Act during World War II.

With the enactment of the pending bill, there will still remain the most important element necessary to its successful administration, that is, the appointment of able, conscientious, and courageous men to interpret and apply the law. I am convinced that the American businessman will accept renegotiation in this emergency as he did in World War II as a necessary control so long as he is convinced that the act is being applied uniformly, with equality of treatment, and with fairness to the businessman and the Government alike.

Mr. McFARLAND obtained the floor.
Mr. HUMPHREY. Mr. President, will the Senator from Arizona yield?

Mr. McFARLAND. I yield to the Senator from Minnesota?

Mr. HUMPHREY. I desire to ask the Senator if he would yield to me to make a few remarks on the pending amendment before he places his request before the Senate.

Mr. McFARLAND. Yes. The Senator may proceed.

Mr. HUMPHREY. Mr. President, I deeply regret that my friend the distinguished junior Senator from Virginia [Mr. ROBERTSON], has to leave the floor, but he will have the Record tomorrow, and what I shall say in reference to his remarks will be merely my interpretation of some statements he has made with respect to the creation of the Board for the administration of the Renegotiation Act.

Mr. ROBERTSON. Mr. President, will the Senator yield?

Mr. HUMPHREY. I am happy to yield.

Mr. ROBERTSON. The Senator from Virginia expresses his great regret that

he cannot remain to hear the remarks of the distinguished Senator from Minnesota. As he explained, a delegation from the Philippines has been waiting for over an hour to see him, and he must leave at this time. However, the Senator from Virginia will be very happy to read in the RECORD what the Senator from Minnesota has to say on the subject.

Mr. HUMPHREY. I appreciate the cooperation of the Senator from Virginia. Thus far in the debate on the pending bill, H. R. 1724, the distinguished Senator from Illinois [Mr. DOUGLAS] has pointed out what I regard and what he has well described as a very serious weakness in the pending legislation, namely, the permissive exemptions. I am in full agreement with the remarks made on the subject by the Senator from Illinois, the Senator from Michigan [Mr. FERGUSON], and the Senator from Maine [Mr. BREWSTER]. I believe the recommendations made by the so-called Brewster committee in this field of legislation surely warrant the fullest and the most sincere consideration of the Senate.

Without directing my attention too much to the amendment offered by the Senator from Illinois, I should like to skip along in the reading of the bill. At page 36 reference is made to the section which creates the Board. I mention the section because the Senator from Virginia was speaking under the impression that this was to be an independent board.

I am sorry to have to point out to my friend from Virginia, at least for the purposes of the RECORD, that it is not to be an independent Board. As a matter of fact, the language of the House bill, starting at page 35 and carrying over to page 36, provides for the establishment of an independent agency to administer the terms of the act. That provision was within the recommendations of the Brewster committee of the Eightieth Congress. It was within the recommendations of the renegotiation officials who carried on renegotiations during World War II. However, Members of the Senate will note that it is contemplated not to establish an independent agency, but rather a Board consisting of five members, one to be appointed by the President and confirmed by the Senate, who would be the chairman, and one member to be appointed by each of the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and the Administrator of the General Services Agency. It should be remembered that we had a General Meyers. I submit, Mr. President, that the Secretaries of the Army, the Navy, and the Air Force, and the Administrator of General Services are too close to procurement to be permitted to appoint or nominate the men for these very important positions on the Renegotiation Board.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. HUMPHREY. I am glad to yield to the Senator from Maine.

Mr. BREWSTER. The Senator will recall also that we had a General Hirsch.

Mr. HUMPHREY. Yes.

Mr. BREWSTER. Who has been very highly extolled. The Senator will also

remember that General Meyers went to jail. He did not renegotiate any contracts.

Mr. HUMPHREY. I am happy to have the Senator from Maine point out that fact. General Meyers was a procurement officer for the Air Force. All I wish to say is that it is entirely possible under the language of the pending bill for a procurement officer to be appointed as a renegotiation officer.

Mr. GEORGE. Mr. President, the Senator is altogether wrong in that respect. If he will read the entire bill he will see that the Secretaries are expressly prohibited from appointing anyone who is in procurement.

Mr. HUMPHREY. I am happy that the Senator has given me the information.

Mr. GEORGE. The purpose of having the Secretaries make the appointment is to get wholly independent persons, and there is another provision in the bill which prohibits them from going into procurement.

Mr. HUMPHREY. But the bill would not prohibit them from appointing persons who are in their departments. It would not prohibit their appointing men who are in the employ of the Government.

Mr. GEORGE. Oh, no.

Mr. HUMPHREY. In the House version, which was stricken, I read:

No member shall engage in any business, vocation, or employment other than that as a member of the Board. The Board shall have a seal which shall be judicially recognized.

The language of the House bill follows more closely the recommendations which were made in the past. The committee amendment, which I understand has been agreed to, sets up a board of five members, four of whom are to be selected by the heads of the agencies which are primarily concerned with procurement. It so happens that the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and the Administrator of General Services will be purchasing at least 95 percent of what is purchased. At least, their officers will be purchasing it. It appears to me that if we are to have a Renegotiation Board the directors of the Board should be as far removed from the agencies which do most of the procuring as it is humanly possible to remove them.

Mr. President, the Select Committee on Small Business, of which I am proud to be a member, has had sufficient testimony presented to it already to indicate that there is all too often a tendency on the part of procurement officers to work with their old friends. I do not mean to indicate or intimate any suggestion of corruption. After all, it is only human nature, when one has known a person for a long period of time, has had close personal contacts with him, and has acquired intimate knowledge of the individual and his business, that relationships should become so personal as to make it difficult to render the judicious decisions that must be made by a renegotiation board. I wish to point that out as a weakness in the bill. I do not know why the language of the House

should be changed. It followed the recommendation of the distinguished General Hirsch, which was brought to the attention of the Senate in the Eightieth Congress.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. HUMPHREY. I am glad to yield to the Senator from Maine.

Mr. BREWSTER. I should like to point out again that General Hirsch was a product of the very system which the Senator now condemns. He was selected by the former Secretary of War, Mr. Patterson. In his recommendations General Hirsch did not have the benefit of the investigation made by the distinguished committee which recently reviewed the activities of five presidential appointees, which have resulted so very disastrously. I assume that perhaps the committee which considered the subject felt it was rather conclusively shown that Presidential selection of a board is no conclusive evidence or assurance that the board's powers will be administered with sole regard for the interests of the Government.

Mr. HUMPHREY. Mr. President, I wish to thank the Senator for his observations, and for his little twist on Presidential nominations. However, I should like to call to the Senator's attention the recommendations of his own committee. I refer particularly to the fifth recommendation:

The renegotiation agency should be a separate agency, independent from the procurement authority, and designed to handle renegotiation of all services and branches of Government.

It is the contention of the junior Senator from Minnesota that we cannot have an independent procurement authority when the Secretary of the Air Force, the Secretary of the Navy, the Secretary of the Army, and the Administrator of General Services, who are responsible for 95 percent of the procurement, are to select four members of the Board.

Mr. CASE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. CASE. In my opinion, the point that there is a possibility that the Board would be the creation of the procurement agencies, which is the point the Senator from Minnesota is discussing, is the real weakness which we are trying to correct. The act of 1943 made it possible for the Secretary to exempt a contract from renegotiation. I refer to the following language:

If in the opinion of the Secretary provisions of the contract or subcontract are otherwise adequate to prevent excessive profits, he may provide that renegotiation shall apply only to a portion of the contract or subcontract or shall not apply to performance during a specified period or periods and may also provide that the contract price in effect during any such period or periods shall not be subject to renegotiation.

In other words, the 1943 act gave more power to the Secretary, who was the procurement agency in each case, than is proposed by the permissive section of the pending bill which would be stricken

by the amendment of the Senator from Illinois.

However, the real weakness, it seems to me, is in the provision for creation of the Board, making it possibly the creature of the procurement agencies. That danger is coupled with section 107 (f), which provides for delegation of power. That creates a real danger, for in paragraph (f) of section 107 the Board is authorized "to redelegate any such power, duty, or function to any agency of the Government and to authorize successive redelegations thereof, within limits specified by the Board."

I am afraid that under the language of the bill, not merely could the Board itself create exemptions, but it could delegate to other personnel the power to create exemptions. It seems to me that it would strengthen the bill to restore the language of the House with regard to the appointment or selection of members of the Board, so as to separate them from the procurement agencies. If the Board were truly independent, there would not be so much risk involved in permitting the Board to say that certain contracts are sufficiently protected in the terms of the contract.

Mr. HUMPHREY. I thank the Senator from South Dakota. I agree with his position. I believe that his clear analysis of the difficulties involved in the bill is directly to the point. That was what I was striking at when I was discussing the question of the creation of the Board.

Mr. President, I intend to ask on Wednesday for a reconsideration of the vote on the committee amendments in section 107. Some Members of the Senate were not alerted as to the consideration of the amendments, and I feel that it is only fitting and proper that they should be opened up for further discussion.

I wish to take note of the fact that in the bill there is a complete mandatory exemption of any contract or subcontract with a common carrier for transportation, or with a public utility for gas, electrical energy, water, communications, or transportation, under the thesis that such activities are regulated either by local, State, or Federal Government.

I think the records of the Government of the United States will indicate that one of the most flagrant overpayments on the part of the Government in World War II was for railroad transportation. I find that the excess profits tax law excludes the same instrumentalities or enterprises. Now they are excluded from renegotiation. Yet I read recently, within the past week, that the profits of the railroads were the greatest they have been in 15 years. We are going to exclude them again.

If we are to exclude a major enterprise such as the railroads, which enjoy special privileges in handling postal matters, which are able to go to the Interstate Commerce Commission and get rate increase after rate increase, which are able to have, without any investigation which amounts to anything, wreck after wreck, and which are able, more or less, to get their own way economically in this country, I say that that provision in the law is not equitable. It

is not fair. It does not do service to those who are compelled to renegotiate. It does not permit economic justice in the defense effort.

Mr. President, I also feel very strongly that if a limitation or basic minimum of \$100,000 was adequate in World War II, when we needed full mobilization, then surely \$200,000 or \$250,000 ought to be adequate now in a preparedness and defense program.

I remind Members of the Senate that since July 1, 1950, the rate of profit in defense industries has been exorbitant. I also remind the Senate that it is entirely possible, under the \$500,000 limitation incorporated in the bill, for a company to break up its contracts into \$500,000 units, and therefore evade entirely the whole process of renegotiation.

There are several provisions of the bill which require our attention. First, there are the mandatory exemptions, which have been altered; the permissive exemptions, which the distinguished Senator from Illinois [Mr. DOUGLAS] has so properly pointed out; the increase of the figure as contained in the House bill from \$100,000 to \$500,000 as a minimum or floor for renegotiation; and the change in the provision for the creation of the Board. These provisions indicate to me that the bill needs very careful analysis and study on the part of every Member of the Senate.

There is a great deal of talk in the Senate and in the House about economy in government. There are two or three ways to achieve economy in government. One is by reducing expenditures. That is fine. I am in favor of reducing non-defense expenditures to a minimum. I commend my distinguished friend, the Senator from Illinois for the work which he has done in that field, and I intend to join with him in many of his efforts.

There is another way to get economy in government, and that is to see that waste in government is eliminated—the kind of waste which all too frequently creeps into a military preparedness program. We must watch that waste carefully and analyze every budget, every request for an appropriation.

There is still another way to economize in government, and that is to see to it that those who are the promoters of the economy cry on the outside of Congress—mainly those who are able to profit the most—do not profit excessively at the expense of the American taxpayers.

We have had many examples of such excessive profits during the period of inflation and speculation in the commodity markets. There has been a tremendous rise in the prices of chemicals and minerals. The Preparedness Subcommittee of the Armed Services Committee has pointed out that in all the defense efforts inflation has cost our Government \$3,000,000,000 for defense materials. I submit that unless the Renegotiation Act is so written that the Board will be independent, above reproach, purer than Caesar's wife, unless the Board is able to delve into any contract of substantial size without fear or favor, unless it is removed from all kinds of political pressure, the American taxpayer will be forced to pay hundreds of millions of

dollars of extra cost for the defense effort.

It is not adequate to say that \$10,000,000,000 was saved in World War II. The question is, How much could have been saved had there not been permissive exemptions? I submit that in connection with this bill it is our job to see to it that every dollar possible is saved. The tax burden is terrific. It is being shared by every citizen of the United States. Some who are least able to pay are paying proportionately the most.

Not only should we see that there is equitable treatment in connection with taxes, but there should be equitable treatment in terms of the privileges of Government. This bill deals with privileges. It deals with that area of American industry and enterprise which is privileged to assume the great obligation of defense production for the United States. That great area of American industry did very well for itself in World War II. In this period of defense, which we hope will prevent World War III, it surely seems to me that we ought to minimize, to the best of our ability, any opportunity for excessive profits.

Many features of the bill are sound and constructive. I should say that that is true of 90 percent of the proposed legislation. However, I repeat that the amendment of the Senator from Illinois [Mr. DOUGLAS] is sound. I repeat that the creation of the Board must be carefully scrutinized. Some of the mandatory exemptions should be carefully scrutinized.

Mr. MCFARLAND. Mr. President, we had thought it advisable not to have a meeting of the Senate tomorrow, in order to give committees an opportunity to catch up on their work. The hour is growing late, and there are several speeches yet to be made.

In order that we may know when we are to vote on the pending amendment, I ask unanimous consent that on Wednesday next, at 2 o'clock p. m., the Senate proceed to vote on the amendment of the senior Senator from Illinois [Mr. DOUGLAS], or on any amendment or motion proposed thereto, the time between 12 noon and 2 o'clock to be divided equally between the chairman of the committee, the Senator from Georgia [Mr. GEORGE] and the senior Senator from Illinois [Mr. DOUGLAS].

The PRESIDING OFFICER (Mr. McCLELLAN in the Chair). Is there objection?

Mr. CASE. Mr. President, reserving the right to object, I should like to ask a question. How can a Senator who wishes later to speak on the amendment assure himself of obtaining some time to do so?

Mr. MCFARLAND. The Senator from Washington has merely to contact the Senator from Georgia [Mr. GEORGE] or the Senator from Illinois [Mr. DOUGLAS], depending on which side the Senator happens to be on.

Mr. DOUGLAS. Mr. President, reserving the right to object, I should like to inquire of the very able majority leader whether it is his intention to proceed with possible amendments to later sections of the bill, and whether

he would also include in his unanimous-consent request a motion to recommit.

Mr. McFARLAND. Mr. President, that will be included in the latter part of the request I propose to make.

Mr. DOUGLAS. Mr. President, in order to conserve the time of the Senate I wish to say I do not believe that 2½ hours will be needed for debate.

Mr. McFARLAND. The time would be less than 2 hours. I have requested that the vote be taken at 2 o'clock. Before that there must be a quorum call.

Mr. DOUGLAS. It seems to me the question could be decided in a briefer period of time than that. If the distinguished senior Senator from Georgia [Mr. GEORGE] wishes the time before action on the amendment to be 2 hours, that is agreeable; but I thought if he is willing that we might save some time by perhaps limiting the total time for debate to an hour, with half an hour on each side.

Mr. GEORGE. Mr. President, that is agreeable to me.

Mr. McFARLAND. Very well. I amend my unanimous-consent request by changing the time for the vote to 1:30 p. m. instead of 2 o'clock.

Mr. President, in order to try to move the voting along on Wednesday I further ask unanimous consent that on all other amendments the time for debate be limited to 30 minutes, divided 15 minutes to each side, all amendments to be germane.

I further ask unanimous consent that debate on the final passage of the bill be limited to 30 minutes, 15 minutes on each side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the request is granted.

The unanimous-consent agreement, as subsequently reduced to writing, is as follows:

Ordered, That on the calendar day of Wednesday, February 21, 1951, at the hour of 1:30 p. m., the Senate proceed to vote, without further debate, upon the amendment proposed to the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes, by Mr. DOUGLAS, on pages 34 and 35, striking out the provision relating to permissive exemptions, and upon any amendment or motion (including appeals) proposed to said amendment: *Provided*, (1) That after the disposition of the amendment proposed by Mr. DOUGLAS, debate upon any other amendment or motion (including appeals) shall be limited to not exceeding 30 minutes, to be equally divided and controlled, respectively, by the mover of any such amendment or motion and Mr. GEORGE; (2) that no amendment or motion that is not germane to the subject matter either of the amendment of Mr. DOUGLAS or of the bill shall be received; and (3) that on the question of the final passage of the bill not to exceed 30 minutes debate shall be permitted, to be equally divided and controlled, respectively, by Mr. GEORGE and Mr. WHERRY (or some Senator designated by him).

Ordered further, That on said day of Wednesday, February 21, 1951, the time between 12 o'clock noon and said hour of 1:30 p. m. shall be equally divided and controlled, respectively, by Mr. DOUGLAS and Mr. GEORGE.

SERVICEMEN'S INDEMNITY ACT OF 1951

Mr. LEHMAN. Mr. President, the amendments which I have offered on

behalf of myself and the Senator from Montana [Mr. MURRAY] and the Senators from West Virginia [Mr. NEELY and Mr. KILGORE] are designed to eliminate a glaring injustice in H. R. 1. Not only is there an injustice to individuals in that bill, but one which is socially unwise and undesirable. I refer, of course, to the fact that the bill in its present form deprives the young men and women who will and are serving their country in the present emergency of the right to take out national service life insurance.

I wish to make clear at the outset that I am not opposed to the indemnity provisions of H. R. 1, nor to any other of the desirable provisions of that bill. I advocate and support the passage of H. R. 1 with the amendments I propose. I consider that measure a much better bill than it was when it came from the House. I think this is a tribute to the conscientious endeavors of the distinguished Senator from Georgia and the members of his able committee. I think it most desirable that all those who serve in the present military effort be protected by an automatic insurance provision which will make available to their dependents the uniform sum of \$10,000. We owe that much, if not much more, to those who serve and to those they leave behind.

But the bill in its present form is not insurance; if it is insurance, it is death insurance, and not life insurance. It is good for one trip only, like the insurance you buy when you set foot on an airplane or a train. It is good for the duration of this emergency but it ceases to have any force or effect once the serviceman takes off his uniform and returns to civilian life, an eventuality we all hope and pray for at the earliest possible time.

At this point I should like to say that I was and I am in favor of the provisions contained in S. 84, a bill introduced by the chairman of the Senate Finance Committee. S. 84 provided that any serviceman who dies or has died in line of duty on or after June 27, 1950, shall be presumed to have been covered by a national service life insurance policy in the amount of \$10,000. Obviously, the intent of this bill was to protect those Korean veterans who die in the service of our country who have not taken out a national service life insurance policy. S. 84 affected neither existing national service life insurance policies nor the rights of future veterans to those policies. However, the seeds of the idea contained in S. 84 have apparently germinated and grown in H. R. 1 into a plant which, while it contains worthwhile fruits, threatens certain rights which servicemen have enjoyed in the past. If the Senator from Georgia wishes to substitute the provisions of S. 84 for those of H. R. 1 at this point, I shall be very happy to support such a move.

I am convinced, however, that in the anxiety to provide an indemnity for all servicemen and to set up a new system of insurance to cover the servicemen who die while in the Armed Forces, an important and dangerous change has been made. The bill in its present form—

without my amendment—would take from the "new" serviceman a real benefit which in the past all servicemen have had. I repeat, we are about to take from the new servicemen a benefit formerly available to all servicemen.

The benefit of which I speak is the opportunity to apply for, and obtain, NSLI. In my opinion, this is a valuable and a vital benefit. It is a socially desirable benefit. It is a benefit to the Nation as well as to the individuals concerned.

Let me try to describe some of the benefits of Government insurance. In the first place, except in unusual cases, the young man who is inducted into the Armed Forces at age 18, 19, or 20 will probably not have been carrying a commercial life-insurance policy. If these men are in the Armed Forces for a period of 5 years, they will certainly not be in a position to obtain commercial policies during that period. Upon being released from the Armed Forces, they would find that the premiums on any insurance policy based on their then-attained age will be higher than the premiums at any earlier age. This will discourage many from having any life insurance at all. This will handicap those who have served their country in the Armed Forces as against those who have not. Obviously, by placing a man in a position where he cannot get life insurance, we are placing him in a position where he is forced to pay a higher premium when he finally does obtain a policy.

There is, of course, still another benefit of Government-sponsored life insurance. NSLI premiums are lower than those of commercial policies. For example, the premium on NSLI—participating—policies at age 25 is \$16.22 per \$1,000 on an ordinary life policy. On one of the cheaper commercial policies similar to the NSLI policy, the annual premium per \$1,000 of insurance at age 25 is \$23.10, a difference of \$6.88 per thousand dollars per year, or for a \$10,000 policy, \$68.80 per year, or \$688 in 10 years.

At this point I ask unanimous consent to have inserted in the record a chart to support my previous statements. This chart indicates that in other commercial policies and for different types of insurance, the difference is even greater.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

Gross annual premiums per \$1,000 at age 25
[Including waiver of premium benefit]

	Ordinary life	20-payment life	20-year endowment
National service life insurance (participating).....	\$16.22	\$25.10	\$41.20
Travelers (nonparticipating).....	17.15	28.59	47.75
Aetna (nonparticipating).....	17.15	29.08	47.48
Connecticut General (nonparticipating).....	17.15	28.86	47.43
Equitable of New York (participating).....	23.10	34.36	52.16
Provident Mutual (participating).....	22.23	34.36	51.80
Northwestern Mutual (participating).....	21.05	34.11	50.41

Mr. LEHMAN. Mr. President, this again is a very real benefit which our

servicemen should certainly have. If our country is to show any gratitude for the service rendered, for the sacrifices made, for the risks taken, our country should continue to make this benefit available to those who enter or are about to enter the armed services.

As an argument for discontinuance of NSLI, it is said that veterans in World War II were not generally insurance-minded and that many did not avail themselves of their opportunity to continue national service life insurance in civilian life. While that may be partially true, it is not fair on this account to deny such an opportunity to future veterans who may wish to avail themselves of such an opportunity.

It is maintained that because of the unwieldy nature and expense of the NSLI program, it should be discontinued. But House bill 1 would not actually discontinue this program. It provides that the program shall be continued for present policyholders and for those new veterans who cannot get commercial policies after their release from active duty. Depending upon the span of life of present policyholders and upon the length of the present emergency, the national service life insurance program may have to be continued for the next 50 or 60 years. I submit, Mr. President, that since such a program must be continued, it would not be disproportionately more expensive to extend NSLI policies to those new veterans who may wish to make an application upon their release from active duty. Since we must maintain the administrative machinery to take care of present policyholders and of the new disabled veterans, why not utilize this machinery for the others?

My amendment numbered 2-15-51-D provides that the veteran may obtain NSLI insurance at the premium rate for his attained age on June 27, 1950, or at the time of entry into active service, whichever is later. This will mean, of course, that the veteran will be required to pay premiums in an amount less than those required for his age at the time he actually made application. The premiums which he would pay under this amendment would be based on his age at the time he entered military service or as of June 27, 1950, whichever was later. This, in effect, sets up a procedure similar to that which affected veterans of World War II who were able to take out insurance upon their date of entry into active service. The veteran would not suffer because he had not had an opportunity to apply for a policy; and, in addition, he would pay lower premiums based on a lower age. Obviously, there would be a deficiency in the national service life insurance fund resulting from this provision. My amendment authorizes and directs the Administrator of Veterans' Affairs to transfer from the national service life insurance appropriation to the national service life insurance fund such amounts as are necessary to make up this deficiency.

Mr. President, I have prepared another amendment, numbered 2/15/51-E, which would grant the "new" veteran the same opportunity as that to be

granted under my first amendment, namely, the opportunity to apply for and receive a national service life insurance policy. This second amendment, however, would permit the veteran to back-date his policy to any date not prior to his entry into active service, or June 27, 1950, only upon the condition that he pay the required reserve to reimburse the fund. I think this amendment, which will cost the Government virtually nothing, is the minimum which should be accepted. If the veteran wishes, he may pay the premium required for his then attained age. If, however, he has the means, and desires to back-date his policy in order to take advantage of a lower premium rate and to invest any savings he might have, he has the opportunity of doing so. Under this amendment, it is not necessary for the Administrator to reimburse the fund.

The indemnity provisions are left untouched, and any savings which might accrue to the Government through these provisions during a period of extended mobilization are unaffected. This amendment simply extends to "new" veterans the same privilege which World War II veterans have enjoyed.

Mr. President, I could make many further arguments on this subject. I could discuss the basic philosophy of national service life insurance, and the social theory of insurance. I could describe how beneficial it is to the Nation to have these millions of young men and young women covered by national life insurance. To a large extent, they are individuals who would not otherwise have any kind of insurance. I could, indeed, if I had time, produce statistics which might show that many young people, introduced to life insurance through national service life insurance, have taken out commercial policies in addition. I could argue at length that national service life insurance is not an interference with the functions of commercial insurance companies, any more than the postal saving system is an interference with the functions of our great private banks.

But there is no need for me to go into these profound and controversial arguments. The fact is that we have national service life insurance. It is on the statute books. Some millions of young men and young women now are protected under it. They have contracts which cannot be revoked.

The only question is whether we are going to withdraw the right from our new servicemen and women—from the young men and young women who are leaving college, interrupting their young careers, who are going out of high school, who are volunteering, who are entering the service of their country as part of our country's struggle for peace and freedom, and for survival. The question is whether we are going to withdraw from these young people the right which was enjoyed by their older brothers and sisters in World War II, and by their fathers in World War I.

There is no reason for withdrawing that right from them. There is no justice in doing so. It would almost be an

act of cynicism to use the grant of one benefit as a cloak behind which to snatch away another which is of equal, if not greater, importance.

I have heard, Mr. President, that the big insurance companies have worked to eliminate this right from our new servicemen. I do not know whether this is true. I deeply hope it is not true. I prefer to believe that in something as basic as this the sponsors of this proposed legislation have simply overlooked this phase of the subject. I prefer to believe that in their commendable desire to provide emergency coverage for all, in the dangerous days immediately ahead, they have inadvertently bypassed the problem of the future day when our young men and young women can come back to their places in a nation at peace with itself and with all other nations in the world.

AMERICAN FOREIGN POLICY

Mr. BENTON obtained the floor.

Mr. MORSE and Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER (Mr. McFARLAND in the chair). Does the Senator from Connecticut yield; and if so, to whom?

Mr. BENTON. Is the Senator from Oregon requesting me to yield in order that he may make an insertion in the RECORD?

Mr. MORSE. Yes; I should like to make an insertion in the RECORD, with the understanding that in yielding to me for that purpose the Senator from Connecticut will not lose his right to the floor.

Mr. BENTON. I am glad to yield to the Senator from Oregon with that understanding; and then I shall yield likewise to the Senator from Delaware.

Mr. MORSE. Mr. President, with a half-minute explanation of the insertion, I wish to say that I had intended today to discuss for a few minutes foreign policy. It is said that there is a great debate going on in the Senate from time to time on foreign policy, but I think it is important that we bring to bear in that debate the points of view of some who are not Members of the Senate. I have in my hand a speech entitled "Forty-five Minutes Ago—and Tomorrow?" delivered on February 8 by Erwin D. Canham, editor of the Christian Science Monitor. I had intended to read extensively from that speech and to comment on it today. But I shall not take the time to do that. I read but three sentences from it. Mr. Canham says:

Some people are telling us we should hole-up in Fortress America and await the worst. That would be a fatal step. That would concede Europe and Asia to the Communists, with all their vital resources and skills—the Ruhr and probably Japan. We could not hope to resist successfully such a combination of power.

Mr. President, I ask unanimous consent to have published in the body of the RECORD as part of my remarks the complete speech of Erwin D. Canham, entitled "Forty-five Minutes Ago—and Tomorrow?"

Please return to
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82D CONGRESS
1ST SESSION

H. R. 1724

IN THE SENATE OF THE UNITED STATES

FEBRUARY 21 (legislative day, JANUARY 29), 1951

Ordered to be printed with the amendments of the Senate numbered

AN ACT

To provide for the renegotiation of contracts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Renegotiation Act of
4 1951".

5 TITLE I—RENEGOTIATION OF CONTRACTS

6 SEC. 101. DECLARATION OF POLICY.

7 It is hereby recognized and declared that the Congress
8 has made available for the execution of the national defense
9 program extensive funds, by appropriation and otherwise,
10 for the procurement of property, processes, and services, and
11 the construction of facilities necessary for the national de-

1 fense; that sound execution of the national defense program
2 requires the elimination of excessive profits from contracts
3 made with the United States, and from related subcontracts,
4 in the course of said program; and that the considered policy
5 of the Congress, in the interests of the national defense and
6 the general welfare of the Nation, requires that such excessive
7 profits be eliminated as provided in this title.

8 **SEC. 102. CONTRACTS SUBJECT TO RENEGOTIATION.**

9 (a) **IN GENERAL.**—The provisions of this title shall be
10 applicable (1) to all contracts **(1)**, *having a direct and im-*
11 *mediate connection with the national defense*, with the De-
12 partments specifically named in section 103 (a), and
13 related subcontracts, to the extent of the amounts received
14 or accrued by a contractor or subcontractor on or after the
15 first day of January 1951, whether such contracts or sub-
16 contracts were made on, before, or after such first day, and
17 (2) to all contracts **(2)**, *having a direct and immediate con-*
18 *nection with the national defense*, with the Departments desig-
19 nated by the President under section 103 (a), and related
20 subcontracts, to the extent of the amounts received or accrued
21 by a contractor or subcontractor on or after the first day of
22 the first month beginning after the date of such designation,
23 whether such contracts or subcontracts were made on,
24 before, or after such first day; but the provisions of this
25 title shall not be applicable to receipts or accruals attribut-

1 able to performance, under contracts or subcontracts, after
2 December 31, 1953.

3 ~~(3)(b) RENEGOTIATION ACT OF 1948.—The Renegotia-~~
4 ~~tion Act of 1948 shall not apply with respect to any receipts~~
5 ~~or accruals subject to renegotiation under this title. If a~~
6 ~~contractor or subcontractor, during the same fiscal year~~
7 ~~in which he has receipts or accruals subject to renegotiation~~
8 ~~under this title, has other receipts or accruals from con-~~
9 ~~tracts or subcontracts subject to renegotiation under the~~
10 ~~Renegotiation Act of 1948, the provisions of this title~~
11 ~~shall, notwithstanding subsection (a), apply to such~~
12 ~~other receipts or accruals if the Board and such con-~~
13 ~~tractor or subcontractor agree to such application of~~
14 ~~this title; and in the case of such an agreement the provisions~~
15 ~~of the Renegotiation Act of 1948 shall not apply to such~~
16 ~~other receipts or accruals of the fiscal year.~~

17 ~~(4)(b) PERFORMANCE PRIOR TO JULY 1, 1950.—Not-~~
18 ~~withstanding the provisions of subsection (a), the provisions~~
19 ~~of this title shall not apply to contracts with the Departments,~~
20 ~~or related subcontracts, to the extent of the amounts received or~~
21 ~~accrued by a contractor or subcontractor on or after the 1st~~
22 ~~day of January 1951, which are attributable to performance,~~
23 ~~under such contracts or subcontracts, prior to July 1, 1950.~~

24 ~~(5)(c) RENEGOTIATION ACT OF 1948.—The Renegotia-~~
25 ~~tion Act of 1948 shall not be applicable to any contract or~~

1 subcontract to the extent of the amounts received or accrued
 2 by a contractor or subcontractor on or after the 1st day of
 3 January 1951, and attributable to performance after June
 4 30, 1950, whether such contract or subcontract was made on,
 5 before, or after such first day. In the case of a fiscal year
 6 beginning in 1950 and ending in 1951, if a contractor or
 7 subcontractor has receipts or accruals prior to January 1,
 8 1951, from contracts or subcontracts subject to the Renego-
 9 tiation Act of 1948, and also has receipts or accruals after
 10 December 31, 1950, to which the provisions of this title are
 11 applicable, the provisions of this title shall, notwithstanding
 12 subsection (a), apply to such receipts and accruals prior to
 13 January 1, 1951, if the Board and such contractor or sub-
 14 contractor agree to such application of this title; and in the
 15 case of such an agreement the provisions of the Renegotia-
 16 tion Act of 1948 shall not apply to any of the receipts or
 17 accruals for such fiscal year.

18 ~~(6)(e)~~ (d) SUSPENSION OF CERTAIN PROFIT LIMITA-
 19 TIONS.—Notwithstanding any agreement to the contrary, the
 20 profit-limitation provisions of the Act of March 27, 1934 (48
 21 Stat. 503, 505), as amended and supplemented, ~~(7)~~and of
 22 section 505 (b) of the Merchant Marine Act, 1936, as
 23 amended and supplemented (46 U. S. C. 1155 (b)), shall
 24 not apply ~~(8)~~, in the case of such Act of March 27, 1934,
 25 to any contract or subcontract if any of the receipts or

1 accruals therefrom are subject to this title (9), and, in the
 2 case of the Merchant Marine Act, 1936, to any contract or
 3 subcontract entered into after December 31, 1950, if any of
 4 the receipts or accruals therefrom are subject to this title.

5 SEC. 103. DEFINITIONS.

6 For the purposes of this title—

7 (a) DEPARTMENT.—The term “Department” means
 8 the Department of Defense, the Department of the Army,
 9 the Department of the Navy, the Department of the Air
 10 Force, the Department of Commerce, the General Services
 11 Administration, the Atomic Energy Commission, (10)the
 12 Reconstruction Finance Corporation, Panama Canal, the
 13 Housing and Home Finance Agency, with respect to con-
 14 struction undertaken by it, and such other agencies of the
 15 Government exercising functions (11)in having a direct and
 16 immediate connection with the national defense as the Presi-
 17 dent shall designate.

18 (b) SECRETARY.—The term “Secretary” means the
 19 Secretary of Defense, the Secretary of the Army, the Secre-
 20 tary of the Navy, the Secretary of the Air Force, the Sec-
 21 retary of Commerce, the Administrator of General Services,
 22 the Atomic Energy Commission, (12)the Chairman of the
 23 Reconstruction Finance Corporation, the head of the Panama
 24 Canal, the Housing and Home Finance Administrator, and
 25 the head of any other agency of the Government which

1 the President shall designate pursuant to subsection (a) of
2 this section.

3 (c) BOARD.—The term “Board” means the Renegotia-
4 tion Board created by section 107 (a) of this Act.

5 (d) RENEGOTIATE AND RENEGOTIATION.—The terms
6 “renegotiate” and “renegotiation” include a determination
7 by agreement or order under this title of the amount of any
8 excessive profits.

9 (e) EXCESSIVE PROFITS.—The term “excessive profits”
10 means the portion of the profits derived from contracts with
11 the Departments and subcontracts which is determined in
12 accordance with this title to be excessive. In determining
13 excessive profits ~~(13)~~ *favorable recognition must be given to*
14 *the efficiency of the contractor or subcontractor, with particu-*
15 *lar regard to attainment of quantity and quality production,*
16 *reduction of costs, and economy in the use of materials,*
17 *facilities, and manpower; and in addition, there shall be*
18 taken into consideration the following factors:

19 ~~(14)~~ ~~(1)~~ Efficiency of contractor, with particular regard
20 to attainment of quantity and quality production, reduc-
21 tion of costs, and economy in the use of materials, facili-
22 ties, and manpower;

23 ~~(15)~~ ~~(2)~~ (1) Reasonableness of costs and profits, with
24 particular regard to volume of production, normal earn-
25 ings, and comparison of war and peacetime products;

~~(16)~~~~(3)~~ (2) ~~(17)~~ Reasonableness of return on *The* net worth, with particular regard to the amount and source of public and private capital employed;

~~(18)~~~~(4)~~ (3) Extent of risk assumed, included the risk incident to reasonable pricing policies;

~~(19)~~~~(5)~~ (4) Nature and extent of contribution to the defense effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance;

~~(20)~~~~(6)~~ (5) Character of business, including source and nature of materials, complexity of manufacturing technique, character and extent of subcontracting, and rate of turn-over;

~~(21)~~~~(7)~~ (6) Such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted.

(f) PROFITS DERIVED FROM CONTRACTS WITH THE DEPARTMENTS AND SUBCONTRACTS.—The term “profits derived from contracts with the Departments and subcontracts” means the excess of the amount received or accrued under such contracts and subcontracts over the costs paid or incurred with respect thereto and determined to be allocable thereto. All items estimated to be allowable as deductions and exclusions under chapter 1 of the Internal

1 Revenue Code (excluding taxes measured by income) shall,
2 to the extent allocable to such contracts and subcontracts,
3 be allowed as items of cost, except that no amount shall be
4 allowed as an item of cost by reason of the application
5 of a carry-over or carry-back (22), *but there shall be allowed*
6 *as an item of cost in any fiscal year, subject to regulations of*
7 *the Board, any excess in the preceding fiscal year of costs paid*
8 *or incurred with respect to receipts or accruals subject to*
9 *the provisions of this title over the amount of such receipts*
10 *or accruals.* Such costs shall be determined in accordance
11 with the method of (23) ~~cost~~ accounting regularly employed
12 by the contractor or subcontractor in keeping his (24) ~~books~~
13 *records*, but, if no such method of (25) ~~cost~~ accounting has
14 been employed, or if the method so employed does not, in the
15 opinion of the Board, or, upon redetermination, in the
16 opinion of The Tax Court of the United States, properly
17 reflect such costs, such costs shall be determined in accord-
18 ance with such method as in the opinion of the Board, or,
19 upon redetermination, in the opinion of The Tax Court of
20 upon redetermination, in the opinion of The Tax Court of the
21 United States, does properly reflect such costs. (26) ~~Irre-~~
22 ~~spective of the method employed or prescribed for determin-~~
23 ~~ing such costs, no item of cost shall be charged to contracts~~
24 ~~with the Departments or subcontracts or used in any manner~~
25 ~~for the purpose of determining such costs, to the extent that,~~

1 in the opinion of the Board, or, upon redetermination, in
2 the opinion of The Tax Court of the United States, such
3 item is unreasonable or not properly chargeable to such con-
4 tracts or subcontracts. In determining the amount of exces-
5 sive profits to be eliminated, proper adjustment shall be
6 made on account of the taxes measured by income, other
7 than Federal taxes, which are attributable to the portion of
8 the profits which are not excessive.

9 (g) SUBCONTRACT.—The term “subcontract” means—

10 (1) any purchase order or agreement (including
11 purchase orders or agreements antedating the related
12 prime contract or higher tier subcontract) to perform
13 all or any part of the work, or to make or furnish any
14 materials, required for the performance of any other
15 contract or subcontract (27), *but such term does not*
16 *include any purchase order or agreement to furnish*
17 *office supplies;*

18 (2) any contract or arrangement covering the right
19 to use any patented or secret method, formula, or device
20 for the performance of a contract or subcontract; and

21 (3) any contract or arrangement (other than a con-
22 tract or arrangement between two contracting parties,
23 one of whom is found by the Board to be a bona fide

1 executive officer, partner, or full-time employee of the
2 other contracting party) under which—

3 (A) any amount payable is contingent upon
4 the procurement of a contract or contracts with a
5 Department or of a subcontract or subcontracts; or

6 (B) any amount payable is determined with
7 reference to the amount of a contract or contracts
8 with a Department or of a subcontract or subcon-
9 tracts; or

10 (C) any part of the services performed or to
11 be performed consists of the soliciting, attempting to
12 procure, or procuring a contract or contracts with a
13 Department or a subcontract or subcontracts.

14 Nothing in this subsection shall be construed (i) to affect in
15 any way the validity or construction of provisions in any
16 contract with a Department or any subcontract, heretofore
17 at any time or hereafter made, prohibiting the payment of
18 contingent fees or commissions; or (ii) to restrict in any
19 way the authority of the Board to determine the nature or
20 amount of selling expense under subcontracts as defined in
21 this subsection, as a proper element of the contract price
22 or as a reimbursable item of cost, under a contract with a
23 Department or a subcontract.

24 ~~(28)(h) FISCAL YEAR.~~ The term "fiscal year" means,
25 except in the case of a partnership as defined in section

1 ~~3797 (a) (2)~~ of the Internal Revenue Code, the taxable
 2 year of the contractor or subcontractor under chapter 1 of
 3 such code. In the case of a partnership as so defined the
 4 term “fiscal year” means such period as the Board by regu-
 5 lations may prescribe.

6 (h) *FISCAL YEAR.*—The term “fiscal year” means the
 7 taxable year of the contractor or subcontractor under chapter
 8 1 of the Internal Revenue Code, except that where any read-
 9 justment of interests occurs in a partnership as defined in
 10 section 3797 (a) (2) of such code, the fiscal year of the
 11 partnership or partnerships involved in such readjustment
 12 shall be determined in accordance with regulations prescribed
 13 by the Board.

14 (i) RECEIVED OR ACCRUED AND PAID OR INCURRED.—
 15 The terms “received or accrued” and “paid or incurred”
 16 shall be construed according to the method of accounting
 17 employed by the contractor or subcontractor in keeping his
 18 ~~(29)~~books records, but if no such method of accounting has
 19 been employed, or if the method so employed does not, in the
 20 opinion of the Board, or, upon redetermination, in the
 21 opinion of The Tax Court of the United States, properly
 22 reflect his receipts or accruals or payments or obligations,
 23 such receipts or accruals or such payments or obligations
 24 shall be determined in accordance with such method as in
 25 the opinion of the Board, or, upon redetermination, in the

1 opinion of The Tax Court of the United States, does properly
2 reflect such receipts or accruals or such payments or
3 obligations.

4 (j) **PERSON.**—The term “person” shall include an indi-
5 vidual, firm, corporation, association, partnership, and any
6 organized group of persons whether or not incorporated.

7 (k) **MATERIALS.**—The term “materials” shall include
8 raw materials, articles, commodities, parts, assemblies, prod-
9 ucts, machinery, equipment, supplies, components, technical
10 data, processes, and other personal property.

11 (l) **AGENCY OF THE GOVERNMENT.**—The term “agency
12 of the Government” means any part of the executive branch
13 of the Government or any independent establishment of
14 the Government or part thereof, including any department
15 (whether or not a Department as defined in subsection (a)
16 of this section), any corporation wholly or partly owned by
17 the United States which is an instrumentality of the United
18 States, or any board, bureau, division, service, office, officer,
19 employee, authority, administration, or other establishment
20 of the Government which is not a part of the legislative or
21 judicial branches.

22 **SEC. 104. RENEGOTIATION CLAUSE IN CONTRACTS.**

23 Subject to section 106 (a), the Secretary of each
24 Department specifically named in section 103 (a) shall

1 insert in each contract made by such Department thirty
2 days or more after the date of the enactment of this Act,
3 and the Secretary of each Department designated by the
4 President under section 103 (a) shall insert in each contract
5 made by such Department thirty days or more after the date
6 of such designation, a provision under which the contractor
7 agrees—

8 (1) to the elimination of excessive profits through
9 renegotiation;

10 (2) that there may be withheld by the United
11 States from amounts otherwise due the contractor, or
12 that he will repay to the United States, if paid to him,
13 any excessive profits;

14 (3) that he will insert in each subcontract described
15 in section 103 (g) a provision under which the subcon-
16 tractor agrees—

17 (A) to the elimination of excessive profits
18 through renegotiation;

19 (B) that there may be withheld by the con-
20 tractor for the United States from amounts other-
21 wise due to the subcontractor, or that the subcon-
22 tractor will repay to the United States, if paid to
23 him, any excessive profits;

24 (C) that the contractor shall be relieved of all

1 liability to the subcontractor on account of any
2 amount so withheld, or so repaid by the subcon-
3 tractor to the United States;

4 (D) that he will insert in each subcontract
5 described in section 103 (g) provisions correspond-
6 ing to those of subparagraphs (A), (B), and (C),
7 and to those of this subparagraph;

8 (4) that there may be withheld by the United
9 States from amounts otherwise due the contractor, or
10 that he will repay to the United States, as the Secretary
11 may direct, any amounts which under section 105 (b)
12 (1) (C) the contractor is directed to withhold from a
13 subcontractor and which are actually unpaid at the time
14 the contractor receives such direction.

15 The obligations assumed by the contractor or subcontractor
16 under paragraph (1) or (3) (A), as the case may be,
17 agreeing to the elimination of excessive profits through re-
18 negotiation shall be binding on him only if the contract or
19 subcontract, as the case may be, is subject to this title. A
20 provision inserted in a contract or subcontract, which recites
21 in substance that the contract or subcontract shall be deemed
22 to contain all the provisions required by this section shall be
23 sufficient compliance with this section. Whether or not the
24 provisions specified in this section are inserted in a contract
25 with a Department or subcontract, to which this title is

1 applicable, such contract or subcontract, as the case may be,
2 shall be considered as having been made subject to this title
3 in the same manner and to the same extent as if such pro-
4 visions had been inserted.

5 **SEC. 105. RENEGOTIATION PROCEEDINGS.**

6 (a) **PROCEEDINGS BEFORE THE BOARD.**—Renegotiation
7 proceedings shall be commenced by the mailing of notice to
8 that effect, in such form as may be prescribed by regulation,
9 by registered mail to the contractor or subcontractor. The
10 Board shall endeavor to make an agreement with the con-
11 tractor or subcontractor with respect to the elimination of
12 excessive profits received or accrued, and with respect to
13 such other matters relating thereto as the Board deems ad-
14 visable. Any such agreement, if made, may, with the con-
15 sent of the contractor or subcontractor, also include provi-
16 sions with respect to the elimination of excessive profits
17 likely to be received or accrued. If the Board does not make
18 an agreement with respect to the elimination of excessive
19 profits received or accrued, it shall issue and enter an order
20 determining the amount, if any, of such excessive profits,
21 and forthwith give notice thereof by registered mail to the
22 contractor or subcontractor. In the absence of the filing of
23 a petition with The Tax Court of the United States under
24 the provisions of and within the time limit prescribed in
25 section 108, such order shall be final and conclusive and shall

1 not be subject to review or redetermination by any court or
2 other agency. The Board shall exercise its powers with
3 respect to the aggregate of the amounts received or accrued
4 during the fiscal year (or such other period as may be fixed
5 by mutual agreement) by a contractor or subcontractor
6 under contracts with the Departments and subcontracts, and
7 not separately with respect to amounts received or accrued
8 under separate contracts with the Departments or subcon-
9 tracts, except that the Board may exercise such powers
10 separately with respect to amounts received or accrued by
11 the contractor or subcontractor under any one or more sepa-
12 rate contracts with the Departments or subcontracts at the
13 request of the contractor or subcontractor. By agreement
14 with any contractor or subcontractor, and pursuant to regu-
15 lations promulgated by it, the Board may in its discretion
16 conduct renegotiation on a consolidated basis in order prop-
17 erly to reflect excessive profits of two or more related con-
18 tractors or subcontractors. (30)*The Board shall conduct*
19 *renegotiation on a consolidated basis with a parent and its*
20 *subsidiary corporations which constitute an affiliated group*
21 *under subsection (d) of section 141 of the Internal Revenue*
22 *Code if all of the corporations included in such affiliated*
23 *group request such consolidation and consent to such regula-*
24 *tions as the Board shall prescribe with respect to the*
25 *determination and elimination of excessive profits of such*

1 *affiliated group.* Whenever the Board makes a determina-
2 tion with respect to the amount of excessive profits, and
3 such determination is made by order, it shall, at the request
4 of the contractor or subcontractor, as the case may be,
5 prepare and furnish such contractor or subcontractor with
6 a statement of such determination, of the facts used as a
7 basis therefor, and of its reasons for such determination.
8 Such statement shall not be used in The Tax Court of the
9 United States as proof of the facts or conclusions stated
10 therein.

11 (b) METHODS OF ELIMINATING EXCESSIVE PROFITS.—

12 (1) IN GENERAL.—Upon the making of an agree-
13 ment, or the entry of an order, under subsection (a) of
14 this section by the Board, or the entry of an order
15 under section 108 by The Tax Court of the United
16 States, determining excessive profits, the Board shall
17 forthwith authorize and direct the Secretaries or any of
18 them to eliminate such excessive profits—

19 (A) by reductions in the amounts otherwise
20 payable to the contractor under contracts with the
21 Departments, or by other revision of their terms;

22 (B) by withholding from amounts otherwise
23 due to the contractor any amount of such excessive
24 profits;

1 (C) by directing any person having a contract
 2 with any agency of the Government, or any sub-
 3 contractor thereunder, to withhold for the account
 4 of the United States from any amounts otherwise due
 5 from such person or such subcontractor to a con-
 6 tractor, or subcontractor, having excessive profits to
 7 be eliminated, and every such person or sub-
 8 contractor receiving such direction shall withhold
 9 and pay over to the United States the amounts
 10 so required to be withheld;

11 (D) by recovery from the contractor or sub-
 12 contractor, or from any person or subcontractor
 13 directed under subparagraph (C) to withhold for
 14 the account of the United States, through payment,
 15 repayment, credit, or suit any amount of such
 16 excessive profits realized by the contractor or sub-
 17 contractor or directed under subparagraph (C) to
 18 be withheld for the account of the United States; or

19 (E) by any combination of these methods, as
 20 is deemed desirable.

21 (2) INTEREST.—Interest at the rate of ~~(31)~~6 4 per
 22 centum per annum shall accrue and be paid on the
 23 amount of such excessive profits from the ~~(32)~~date fixed
 24 ~~for repayment by~~ *thirtieth day after the date of the order*
 25 *of the Board or* ~~(33)~~*from the date fixed for repayment by*

1 the agreement with the contractor or subcontractor to the
2 date of repayment, and on amounts required to be with-
3 held by any person or subcontractor for the account of
4 the United States pursuant to paragraph (1) (C), from
5 the date payment is demanded by the Secretaries or
6 any of them to the date of payment. When The Tax
7 Court of the United States, under section 108, redeter-
8 mines the amount of excessive profits received or accrued
9 by a contractor or subcontractor, interest at the rate of
10 ~~(34)~~ 6 4 per centum per annum shall accrue and be paid
11 by such contractor or subcontractor as follows:

12 (A) When the amount of excessive profits
13 determined by the Tax Court is greater than the
14 amount determined by the Board, interest shall
15 accrue and be paid on the amount determined by the
16 Board from the ~~(35)~~ date originally fixed by the
17 Board for its repayment *thirtieth day after the date of*
18 *the order of the Board* to the date of repayment and,
19 in addition thereto, interest shall accrue and be paid
20 on the additional amount determined by the Tax
21 Court from the date of its order determining such
22 excessive profits to the date of repayment.

23 (B) When the amount of excessive profits
24 determined by the Tax Court is equal to the amount
25 determined by the Board, interest shall accrue and

1 be paid on such amount from the ~~(36)~~date originally
2 fixed by the Board for its repayment *thirtieth day*
3 *after the date of the order of the Board* to the date
4 of repayment.

5 (C) When the amount of excessive profits
6 determined by the Tax Court is less than the amount
7 determined by the Board, interest shall accrue and be
8 paid on such lesser amount from the ~~(37)~~date
9 originally fixed for repayment by the Board *thirtieth*
10 *day after the date of the order of the Board* to the
11 date of repayment ~~(38)~~, *except that no interest shall*
12 *accrue or be payable on such lesser amount if such*
13 *lesser amount is not in excess of an amount which the*
14 *contractor or subcontractor tendered in payment*
15 *prior to the filing of the petition with the Tax Court.*
16 ~~(39)~~*Notwithstanding the provisions of this paragraph,*
17 *no interest shall accrue after three years from the date*
18 *of filing a petition with the Tax Court pursuant to*
19 *section 108 of this title in any case in which there has*
20 *not been a final determination by the Tax Court with*
21 *respect to such petition within such three-year period.*

22 (3) SUITS FOR RECOVERY.—Actions on behalf of
23 the United States may be brought in the appropriate
24 courts of the United States to recover, (A) from the

1 contractor or subcontractor, any amount of such ex-
2 cessive profits and accrued interest not withheld or
3 eliminated by some other method under this subsection,
4 and (B) from any person or subcontractor who has been
5 directed under paragraph (1) (C) of this subsection
6 to withhold for the account of the United States, the
7 amounts required to be withheld under such paragraph,
8 together with accrued interest thereon.

9 (4) SURETIES.—The surety under a contract or
10 subcontract shall not be liable for the repayment of any
11 excessive profits thereon.

12 (40)(5) ASSIGNEES.—*Nothing herein contained shall*
13 *be construed (A) to authorize any Department or agency*
14 *of the Government, except to the extent provided in the*
15 *Assignment of Claims Act of 1940, as now or hereafter*
16 *amended, to withhold from any assignee referred to in*
17 *said Act, any moneys due or to become due, or to recover*
18 *any moneys paid, to such assignee under any contract*
19 *with any Department or agency where such moneys have*
20 *been assigned pursuant to such Act, or (B) to au-*
21 *thorize any Department or agency of the Government*
22 *to direct the withholding pursuant to this Act, or to*
23 *recover pursuant to this Act, from any bank, trust*
24 *company or other financing institution (including any*

1 *Federal lending agency) which is an assignee under any*
 2 *subcontract, any moneys due or to become due or paid*
 3 *to any such assignee under such subcontract.*

4 ~~(41)~~~~(5)~~ (6) INDEMNIFICATION.—Each person is here-
 5 by indemnified by the United States against all claims on
 6 account of amounts withheld by such person pursuant
 7 to this subsection from a contractor or subcontractor and
 8 paid over to the United States.

9 ~~(42)~~~~(6)~~ (7) TREATMENT OF RECOVERIES.—All money
 10 recovered in respect to amounts paid to a contractor from
 11 appropriations from the Treasury by way of repayment
 12 or suit under this subsection shall be covered into the
 13 Treasury as miscellaneous receipts. Upon the withhold-
 14 ing of any amount of excessive profits or the crediting of
 15 any amount of excessive profits against amounts other-
 16 wise due a contractor, the Secretary shall certify the
 17 amount thereof to the Treasury and the appropriations
 18 of his Department shall be reduced by an amount equal
 19 to the amount so withheld or credited. The amount of
 20 such reductions shall be transferred to the surplus fund
 21 of the Treasury. ~~(43)~~~~All money recovered in respect of~~
 22 ~~amounts paid to the contractor from corporate or other~~
 23 ~~revolving funds (other than appropriations from the~~
 24 ~~Treasury) by way of repayment, withholding, crediting,~~
 25 ~~or suit under this section shall be restored to such funds.~~

1 The Board is authorized to make regulations giving effect
2 to the intent of this provision in respect of money recov-
3 ered representing subcontract excessive profits not readily
4 identifiable as to the public funds ultimately reflecting
5 charges therefor.

6 ~~(44)(7)~~ (8) CREDIT FOR TAXES PAID.—In eliminating
7 excessive profits, the Secretary shall allow the contractor
8 or subcontractor credit for Federal income and excess
9 profits taxes as provided in section 3806 of the Internal
10 Revenue Code.

11 (c) PERIODS OF LIMITATIONS.—No proceeding to de-
12 termine the amount of excessive profits for any fiscal year
13 shall be commenced more than one year after the state-
14 ment required under subsection (e) (1) of this section is
15 filed with the Board with respect to such year, and, if such
16 proceeding is not commenced prior to the expiration of
17 one year following the date upon which such statement is so
18 filed, all liabilities of the contractor or subcontractor for
19 excessive profits received or accrued during such fiscal year
20 shall thereupon be discharged. If an agreement or order
21 determining the amount of excessive profits is not made
22 within two years following the commencement of the re-
23 negotiation proceeding, then upon the expiration of such
24 two years all liabilities of the contractor or subcontractor
25 for excessive profits with respect to which such proceeding

1 was commenced shall thereupon be discharged, except that
2 (1) if an order is made within such two years pursuant
3 to a delegation of authority under subsection (d) of section
4 107, such two-year limitation shall not apply to review of
5 such order by the Board, and (2) such two-year period
6 may be extended by mutual agreement.

7 (d) AGREEMENTS TO ELIMINATE EXCESSIVE PROF-
8 ITS.—For the purposes of this title the Board may make final
9 or other agreements with a contractor or subcontractor for
10 the elimination of excessive profits and for the discharge of
11 any liability for excessive profits under this title. Such agree-
12 ments may contain such terms and conditions as the Board
13 deems advisable. Any such agreement shall be conclusive
14 according to its terms; and, except upon a showing of fraud
15 or malfeasance or a willful misrepresentation of a material
16 fact, (1) such agreement shall not for the purposes of this
17 title be reopened as to the matters agreed upon, and shall not
18 be modified by any officer, employee, or agent of the United
19 States, and (2) such agreement and any determination made
20 in accordance therewith shall not be annulled, modified, set
21 aside, or disregarded in any suit, action, or proceeding. Not-
22 withstanding any other provision of this title, however, the
23 Board shall have the power, pursuant to regulations promul-
24 gated by it, to modify any agreement or order for the purpose

1 of extending the time for payment of sums due under such
2 agreement or order.

3 (e) INFORMATION AVAILABLE TO BOARD.—

4 (1) FURNISHING OF FINANCIAL STATEMENTS,
5 ETC.—Every person who holds contracts or subcontracts,
6 to which the provisions of this title are applicable, shall,
7 in such form and detail as the Board may by regulations
8 prescribe, file with the Board, on or before the first day
9 of the fourth calendar month following the close of his
10 fiscal year, a financial statement setting forth such
11 information as the Board may by regulations prescribe
12 as necessary to carry out this title. In addition to the
13 statement required under the preceding sentence, every
14 such person shall, at such time or times and in such form
15 and detail as the Board may by regulations prescribe,
16 furnish the Board any information, records, or data which
17 are determined by the Board to be necessary to carry out
18 this title. Any person who willfully fails or refuses to
19 furnish any statement, information, records, or data re-
20 quired of him under this subsection, or who knowingly
21 furnishes any such statement, information, records, or
22 data containing information which is false or misleading
23 in any material respect, shall, upon conviction thereof, be

1 punished by a fine of not more than \$10,000 or impris-
 2 onment for not more than one year, or both.

3 (2) AUDIT OF BOOKS AND RECORDS.—For the pur-
 4 pose of this title, the Board shall have the right to audit
 5 the books and records of any contractor or subcontractor
 6 subject to this title. In the interest of economy and
 7 the avoidance of duplication of inspection and audit, the
 8 services of the Bureau of Internal Revenue shall, upon
 9 request of the Board and the approval of the Secretary
 10 of the Treasury, be made available to the extent deter-
 11 mined by the Secretary of the Treasury for the purpose
 12 of making examinations and audits under this title.

13 (f) MINIMUM AMOUNTS SUBJECT TO RENEGOTIA-
 14 TION.—

15 (1) IN GENERAL.—If the aggregate of the amounts
 16 received or accrued during a fiscal year (and on or after
 17 the applicable effective date specified in section 102
 18 (a)) by a contractor or subcontractor, and all persons
 19 under control of or controlling or under common con-
 20 trol with the contractor or subcontractor, under contracts
 21 with the Departments and subcontracts described in
 22 section 103 (g) (1) and (2), is not more than
 23 ~~(45)~~\$100,000 \$500,000, the receipts or accruals from
 24 such contracts and subcontracts shall not, for such fiscal
 25 year, be renegotiated under this title. If the aggregate

of such amounts received or accrued during the fiscal year under such contracts and subcontracts is more than ~~(46)~~\$100,000 \$500,000, no determination of excessive profits to be eliminated for such year with respect to such contracts and subcontracts shall be in an amount greater than the amount by which such aggregate exceeds ~~(47)~~\$100,000 \$500,000.

(2) SUBCONTRACTS DESCRIBED IN SECTION 103

(G) (3).—If the aggregate of the amounts received or accrued during a fiscal year (and on or after the applicable effective date specified in section 102 (a)) by a subcontractor, and all persons under control of or controlling or under common control with the subcontractor, under subcontracts described in section 103 (g) (3) is not more than \$25,000, the receipts or accruals from such subcontracts shall not, for such fiscal year, be renegotiated under this title. If the aggregate of such amounts received or accrued during the fiscal year under such subcontracts is more than \$25,000, no determination of excessive profits to be eliminated for such year with respect to such subcontracts shall be in an amount greater than the amount by which such aggregate exceeds \$25,000.

(3) COMPUTATION.—~~(48)~~In computing the aggregate of the amounts received or accrued during any fiscal

1 year for the purposes of paragraphs ~~(1)~~ and ~~(2)~~ of this
 2 subsection; such computation shall be made without
 3 elimination of intercompany sales. If the fiscal year is
 4 a fractional part of twelve months, the ~~(49)~~~~\$100,000~~
 5 ~~\$500,000~~ amount and the \$25,000 amount shall be
 6 reduced to the same fractional part thereof for the
 7 purposes of paragraphs (1) and (2). ~~(50)~~*In the case of*
 8 *a fiscal year beginning in 1950 and ending in 1951, the*
 9 *\$500,000 amount and the \$25,000 amount shall be*
 10 *reduced to an amount which bears the same ratio to*
 11 *\$500,000 or \$25,000, as the case may be, as the num-*
 12 *ber of days in such fiscal year after December 31, 1950,*
 13 *bears to 365, but this sentence shall have no application*
 14 *if the contractor or subcontractor has made an agreement*
 15 *with the Board pursuant to section 102 (c) for the*
 16 *application of the provisions of this title to receipts or*
 17 *accruals prior to January 1, 1951, during such fiscal*
 18 *year.*

19 **SEC. 106. EXEMPTIONS.**

20 (a) **MANDATORY EXEMPTIONS.**—The provisions of this
 21 title shall not apply to—

22 (1) any contract by a Department with any Terri-
 23 tory, possession, or State, or any agency or political sub-
 24 division thereof, or with any foreign government or any
 25 agency thereof; or

(2) any contract or subcontract for an agricultural commodity in its raw or natural state, or if the commodity is not customarily sold or has not an established market in its raw or natural state, in the first form or state, beyond the raw or natural state, in which it is customarily sold or in which it has an established market (51),—but only if such contract or subcontract is with the producer of such agricultural commodity. The term “agricultural commodity” as used herein shall include but shall not be limited to—

(A) commodities resulting from the cultivation of the soil such as grains of all kinds, fruits, nuts, vegetables, hay, straw, cotton, tobacco, sugarcane, and sugar beets;

(B) natural resins, saps, and gums of trees;

(C) animals, such as cattle, hogs, poultry, and sheep, fish and other marine life, and the produce of live animals, such as wool (52) *in the grease or scoured*, eggs, milk and cream; or

(3) any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, (53) *or timber*, which has not been processed, refined, or treated beyond the (54) *ordinary treatment processes normally applied by producers in order to obtain the first*

1 commercially marketable product, but only if such con-
 2 tract or subcontract is with the owner or operator of the
 3 mine, well, or deposit from which such product is pro-
 4 duced. The term "ordinary treatment processes" means,
 5 in the case of the product of a mine, well, or deposit with
 6 respect to which an allowance for percentage depletion
 7 is provided by section 114 (b) (3) or (4) of the
 8 Internal Revenue Code, those processes which are taken
 9 into account under such section in computing gross in-
 10 come from the property, and in the case of any other
 11 product such term means such similar processes as may
 12 be prescribed under regulations promulgated by the
 13 Board; *or first form or state suitable for industrial use;*
 14 *or*
 15 (55)(4) Any contract or subcontract for timber which
 16 has not been processed beyond the form of logs, but only
 17 if such contract or subcontract is with the owner of the
 18 timber property or with the producer of the logs; or
 19 (56)(4) any contract or subcontract with a common car-
 20 rier for transportation, or with a public utility for gas,
 21 electric energy, water, communications, or transporta-
 22 tion, when made in either case at rates not in excess of
 23 published rates or charges filed with, fixed, approved,
 24 or regulated by a public regulatory body, State, Federal,
 25 or local, or at rates not in excess of unregulated

1 rates of such a public utility which are substantially
 2 as favorable to users and consumers as are regulated
 3 rates. In the case of the furnishing or sale of transpor-
 4 tation by common carrier by water, this paragraph shall
 5 apply only to such furnishing or sale which is subject
 6 to the jurisdiction of the Interstate Commerce Commis-
 7 sion under Part III of the Interstate Commerce Act
 8 or subject to the jurisdiction of the Federal Maritime
 9 Board under the Intercoastal Shipping Act, 1933; or
 10 ~~(57)~~(5) any contract or subcontract with an organiza-
 11 tion exempt from taxation under section 101 (6) of the
 12 Internal Revenue Code, provided that the income from
 13 such contract or subcontract would not constitute "unre-
 14 lated business income" within the meaning of section
 15 422 of the Internal Revenue Code; or
 16 ~~(58)~~(6) any contract with a Department awarded as a
 17 result of competitive bidding for the construction of any
 18 building, structure, improvement or facility; or
 19 ~~(59)~~(5) (7) any subcontract directly or indirectly
 20 under a contract or subcontract to which this title does
 21 not apply by reason of this subsection.

22 ~~(60)~~(b) COST ALLOWANCE.—In the case of a contractor
 23 or subcontractor who produces an agricultural product and
 24 processes, refines, or treats such a product beyond the first
 25 form or state provided in paragraph ~~(2)~~ of subsection (a);

1 or who produces the product of a mine, oil or gas well,
 2 or other mineral or natural deposit, or timber, and
 3 processes, refines, or treats such a product beyond the first
 4 commercially marketable state provided in paragraph
 5 ~~(3)~~ of subsection ~~(a)~~ or, in the case of timber,
 6 beyond the form of logs, the Board shall prescribe such
 7 regulations as may be necessary to give the contractor
 8 or subcontractor a cost allowance substantially equiva-
 9 lent to the amount which would have been realized by such
 10 contractor or subcontractor if he had sold the product in the
 11 form or state provided in paragraph ~~(2)~~ or ~~(3)~~ of subsec-
 12 tion ~~(a)~~, or, in the case of timber, in the form of logs.

13 *(b) COST ALLOWANCE.—In the case of a contractor or*
 14 *subcontractor who produces or acquires the product of a*
 15 *mine, oil or gas well, or other mineral or natural deposit, or*
 16 *timber, and processes, refines, or treats such a product to*
 17 *and beyond the first form or state suitable for industrial use,*
 18 *or who produces or acquires an agricultural product and*
 19 *processes, refines, or treats such a product to and beyond the*
 20 *first form or state in which it is customarily sold or in which*
 21 *it has an established market, the Board shall prescribe such*
 22 *regulations as may be necessary to give such contractor or*
 23 *subcontractor a cost allowance substantially equivalent to the*
 24 *amount which would have been realized by such contractor or*
 25 *subcontractor if he had sold such product at such first form*

1 or state. Notwithstanding any other provisions of this title,
 2 there shall be excluded from consideration in determining
 3 whether or not a contractor or subcontractor has received or
 4 accrued excessive profits that portion of the profits, derived
 5 from receipts and accruals subject to the provisions of this
 6 title, attributable to the increment in value of the excess
 7 inventory. For the purposes of this subsection the term
 8 "excess inventory" means inventory of products, hereinbe-
 9 fore described in this subsection, acquired by the contractor
 10 or subcontractor in the form or at the state in which con-
 11 tracts for such products on hand or on contract would be
 12 exempted from this title by subsection (a) (2) or (3) of this
 13 section, which is in excess of the inventory reasonably neces-
 14 sary to fulfill existing contracts or orders. That portion of the
 15 profits, derived from receipts and accruals subject to the
 16 provisions of this title, attributable to the increment in value
 17 of the excess inventory, and the method of excluding such
 18 portion of profits from consideration in determining whether
 19 or not the contractor or subcontractor has received or accrued
 20 excessive profits, shall be determined in accordance with
 21 regulations prescribed by the Board.

22 **(61)(c) PARTIAL MANDATORY EXEMPTION FOR DUR-**
 23 **ABLE PRODUCTIVE EQUIPMENT.—**

24 (1) *IN GENERAL.*—The provisions of this title shall
 25 not apply to receipts or accruals from subcontracts for

1 *durable productive equipment, except to that part of*
 2 *such receipts or accruals which bears the same ratio to*
 3 *the total of such receipts or accruals as five years bears*
 4 *to the average useful life of such equipment as set forth*
 5 *in Bulletin F of the Bureau of Internal Revenue (1942*
 6 *edition) or, if an average useful life is not so set forth,*
 7 *then as estimated by the Board.*

8 (2) *DEFINITIONS.*—*For the purpose of this sub-*
 9 *section—*

10 (A) *the term “durable productive equipment”*
 11 *means machinery, tools, or other equipment which*
 12 *does not become a part of an end product, or of*
 13 *an article incorporated therein, and which has an*
 14 *average useful life of more than five years; and*

15 (B) *the term “subcontracts for durable pro-*
 16 *ductive equipment” does not include subcontracts*
 17 *where the purchaser of such durable productive*
 18 *equipment has acquired such equipment for the*
 19 *account of the Government, but includes pool orders*
 20 *and similar commitments placed in the first instance*
 21 *by a Department or other agency of the Government*
 22 *when title to the equipment is transferred on delivery*
 23 *thereof or within one year thereafter to a contractor*
 24 *or subcontractor.*

25 (62)(e) (d) *PERMISSIVE EXEMPTIONS.*—*The Board is au-*

1 thorized, in its discretion, to exempt from some or all of the
2 provisions of this title—

3 (1) any contract or subcontract to be performed
4 outside of the territorial limits of the continental United
5 States or in Alaska;

6 (2) any contracts or subcontracts under which,
7 in the opinion of the Board, the profits can be deter-
8 mined with reasonable certainty when the contract
9 price is established, such as certain classes of (A) agree-
10 ments for personal services or for the purchase of real
11 property, perishable goods, or commodities the mini-
12 mum price for the sale of which has been fixed by a
13 public regulatory body, (B) leases and license agree-
14 ments, and (C) agreements where the period of per-
15 formance under such contract or subcontract will not
16 be in excess of thirty days;

17 (3) any contract or subcontract or performance
18 thereunder during a specified period or periods if, in
19 the opinion of the Board, the provisions of the contract
20 are otherwise adequate to prevent excessive profits;

21 (4) any contract or subcontract the renegotia-
22 tion of which would jeopardize secrecy required in the
23 public interest;

24 (5) any subcontract or group of subcontracts
25 not otherwise exempt from the provisions of this sec-

1 tion, if, in the opinion of the Board, it is not admin-
 2 istratively feasible in the case of such subcontract or
 3 in the case of such group of subcontracts to determine
 4 and segregate the profits attributable to such subcon-
 5 tract or group of subcontracts from the profits at-
 6 tributable to activities not subject to renegotiation.

7 The Board may so exempt contracts and subcontracts
 8 (63) ~~both individually and only~~ by general classes or types.

9 SEC. 107. RENEGOTIATION BOARD.

10 (64) (a) ~~CREATION OF BOARD.~~—There is hereby created, as
 11 an independent establishment in the executive branch of
 12 the Government, a Renegotiation Board to be composed
 13 of five members appointed by the President, by and with
 14 the advice and consent of the Senate. Not less than three
 15 members of the Board shall be appointed from civilian life.
 16 The President shall designate one member to serve as chair-
 17 man of the Board. Each member shall receive compensation
 18 at the rate of \$12,500 per annum. No member shall
 19 engage in any business, vocation, or employment other than
 20 that as a member of the Board. The Board shall have a
 21 seal which shall be judicially recognized.

22 (64) (a) *CREATION OF BOARD.*—There is hereby created,
 23 as an independent establishment in the executive branch of
 24 the Government, a Renegotiation Board to be composed of
 25 five members to be appointed by the President, by and with

1 *the advice and consent of the Senate. The Secretaries of*
 2 *the Army, the Navy, and the Air Force, respectively, sub-*
 3 *ject to the approval of the Secretary of Defense, and the Ad-*
 4 *ministrator of General Services shall each recommend to the*
 5 *President, for his consideration, one person to serve as a*
 6 *member of the Board. The Chairman shall receive compen-*
 7 *sation at the rate of \$17,500 per annum, and the other mem-*
 8 *bers shall receive compensation at the rate of \$15,000 per*
 9 *annum. No member shall actively engage in any business,*
 10 *vocation, or employment other than as a member of the Board.*
 11 *The Board shall have a seal which shall be judicially noticed.*

12 (b) PLACES OF MEETINGS AND QUORUM.—The prin-
 13 cipal office of the Board shall be (65)at such place as may be
 14 ~~determined from time to time by the Board~~ in the District
 15 of Columbia, but it or any division thereof may meet and
 16 exercise its powers at any other place. The Board may
 17 establish such number of offices as it deems necessary to
 18 expedite the work of the Board. Three members of the
 19 Board shall constitute a quorum, and any power, function,
 20 or duty of the Board may be exercised or performed by a
 21 majority of the members present if the members present
 22 constitute at least a quorum.

23 (c) PERSONNEL.—The Board is authorized, subject to
 24 (66)the civil service laws and the Classification Act of 1949
 25 (67)(but without regard to the civil-service laws and regula-

1 tions), to employ and fix the compensation of such officers and
 2 employees as it deems necessary to assist it in carrying out
 3 its duties under this title. The Board may, with the consent
 4 of the head of the agency of the Government concerned,
 5 utilize the services of any officers or employees of the United
 6 States, and reimburse such agency for the services so utilized.
 7 Officers or employees whose services are so utilized shall not
 8 receive additional compensation for such services, but shall
 9 be allowed and paid necessary travel expenses and a per
 10 diem in lieu of subsistence in accordance with the Standard-
 11 ized Government Travel Regulations while away from their
 12 homes or official station on duties of the Board.

13 (d) DELEGATION OF POWERS.—The Board may dele-
 14 gate in whole or in part any function, power, or duty (other
 15 than its power to promulgate regulations and rules (68)and
 16 other than its power to grant permissive exemptions under
 17 section 106 (d)) to any agency of the Government, in-
 18 cluding any such agency established by the Board, and
 19 may authorize the successive redelegation, within limits
 20 specified by it, of any such function, power, or duty
 21 to any agency of the Government, including any such
 22 agency established by the Board. (69)But no func-
 23 tion, power, or duty shall be delegated or redelegated
 24 to any person pursuant to this subsection or subsection (f)
 25 unless the Board has determined that such person (other than

1 *the Secretary of a Department) is responsible directly to*
 2 *the Board or to the person making such delegation or redele-*
 3 *gation and is not engaged on behalf of any Department in*
 4 *the making of contracts for the procurement of supplies or*
 5 *services, or in the supervision of such activity; and any*
 6 *delegation or redelegation of any function, power, or duty*
 7 *pursuant to this subsection or subsection (f) shall be revoked*
 8 *by the person making such delegation or redelegation (or*
 9 *by the Board if made by it) if the Board shall at any time*
 10 *thereafter determine that the person (other than the Secretary*
 11 *of a Department) to whom has been delegated or redelegated*
 12 *such function, power, or duty is not responsible directly to*
 13 *the Board or to the person making such delegation or redele-*
 14 *gation or is engaged on behalf of any Department in the*
 15 *making of contracts for the procurement of supplies or serv-*
 16 *ices, or in the supervision of such activity.*

17 (e) ORGANIZATION AND OPERATION OF BOARD.—The
 18 Chairman of the Board may from time to time divide the
 19 Board into divisions of one or more members, assign the
 20 members of the Board thereto, and in case of a division
 21 of more than one member, designate the chief thereof.
 22 The Board may also, by regulations or otherwise, determine
 23 the character of cases to be conducted initially by the Board
 24 through an officer or officers of, or utilized by, the Board,
 25 the character of cases to be conducted initially by the various

1 agencies of the Government authorized to exercise powers of
2 the Board pursuant to subsection (d) of this section, the
3 character of cases to be conducted initially by the various
4 divisions of the Board, and the character of cases to be con-
5 ducted initially by the Board itself. The Board may review
6 any determination in any case not initially conducted by it,
7 on its own motion or, in its discretion, at the request of
8 any contractor or subcontractor aggrieved thereby. Unless
9 the Board upon its own motion initiates a review of such
10 determination within ninety days from the date of such
11 determination, or at the request of the contractor or sub-
12 contractor made within ninety days from the date of such
13 determination initiates a review of such determination within
14 ninety days from the date of such request, such determination
15 shall be deemed the determination of the Board. If such
16 determination was made by an order with respect to which
17 notice thereof was given by registered mail pursuant to
18 section 105 (a), the Board shall give notice by registered
19 mail to the contractor or subcontractor of its decision not
20 to review the case. If the Board reviews any determination
21 in any case not initially conducted by it and does not make
22 an agreement with the contractor or subcontractor with
23 respect to the elimination of excessive profits, it shall issue and
24 enter an order under section 105 (a) determining the
25 amount, if any, of excessive profits, and forthwith give notice

1 thereof by registered mail to the contractor or subcontractor.
2 The amount of excessive profits so determined upon review
3 may be less than, equal to, or greater than, that determined
4 by the agency of the Government whose action is so
5 reviewed.

6 (f) DELEGATION OF RENEGOTIATION FUNCTIONS TO
7 BOARD.—The Board is hereby authorized and directed to
8 accept and perform such renegotiation powers, duties, and
9 functions as may be delegated to it under any other law
10 requiring or permitting renegotiation, and the Board is
11 further authorized to redelegate any such power, duty, or
12 function to any agency of the Government and to authorize
13 successive redelegations thereof, within limits specified by
14 the Board. Notwithstanding any other provision of law, the
15 Secretary of Defense is hereby authorized to delegate to the
16 Board, in whole or in part, the powers, functions, and duties
17 conferred upon him by any other renegotiation law.

18 **SEC. 108. REVIEW BY THE TAX COURT.**

19 Any contractor or subcontractor aggrieved by an order
20 of the Board determining the amount of excessive profits
21 received or accrued by such contractor or subcontractor
22 may—

23 (a) if the case was conducted initially by the Board
24 itself—within ninety days (not counting Sunday or a
25 legal holiday in the District of Columbia as the last

1 day) after the mailing under section 105 (a) of the
2 notice of such order, or
3 (b) if the case was not conducted initially by the
4 Board itself—within ninety days (not counting Sunday
5 or a legal holiday in the District of Columbia as the
6 last day) after the mailing under section 107 (e) of
7 the notice of the decision of the Board not to review
8 the case or the notice of the order of the Board determin-
9 ing the amount of excessive profits,
10 file a petition with The Tax Court of the United States
11 for a redetermination thereof. Upon such filing such court
12 shall have exclusive jurisdiction, by order, to finally deter-
13 mine the amount, if any, of such excessive profits received or
14 accrued by the contractor or subcontractor, and such de-
15 termination shall not be reviewed or redetermined by any
16 court or agency. The court may determine as the amount of
17 excessive profits an amount either less than, equal to, or
18 greater than that determined by the Board. A proceeding
19 before the Tax Court to finally determine the amount, if
20 any, of excessive profits shall not be treated as a proceeding
21 to review the determination of the Board, but shall be
22 treated as a proceeding de novo. For the purposes of this
23 section the court shall have the same powers and duties,
24 insofar as applicable in respect of the contractor, the sub-
25 contractor, the Board, and the Secretary, and in respect of

1 the attendance of witnesses and the production of papers,
2 notice of hearings, hearings before divisions, review by the
3 Tax Court of decisions of divisions, stenographic reporting,
4 and reports of proceedings, as such court has under sections
5 1110, 1111, 1113, 1114, 1115 (a), 1116, 1117 (a), 1118,
6 1120, and 1121 of the Internal Revenue Code in the case of
7 a proceeding to redetermine a deficiency. In the case of any
8 witness for the Board, the fees and mileage, and the expenses
9 of taking any deposition shall be paid out of appropriations
10 of the Board available for that purpose, and in the case of
11 any other witnesses shall be paid, subject to rules prescribed
12 by the court, by the party at whose instance the witness
13 appears or the deposition is taken. The filing of a petition
14 under this section shall operate to stay the execution of
15 the order of the Board under subsection (b) of section 105
16 if within ~~(70)~~*five ten* days after the filing of the petition the
17 petitioner files with the Tax Court a good and sufficient bond,
18 approved by such court, in such amount as may be fixed by
19 the court. Any amount collected by the United States under
20 an order of the Board in excess of the amount found to be
21 due under a determination of excessive profits by the Tax
22 Court shall be refunded to the contractor or subcontractor
23 with interest thereon at the rate of ~~(71)~~*6* 4 per centum per
24 annum from the date of collection by the United States to
25 the date of refund.

1 **(72)SEC. 109. REDETERMINATIONS UNDER THE RENEGOTIA-**
 2 **TION ACT.**

3 *Notwithstanding any statute of limitations or any other*
 4 *provision of law, upon application made within one year*
 5 *after the date of enactment of this title, the Board shall make*
 6 *a redetermination de novo of any proceedings under the*
 7 *Renegotiation Act of any contract or subcontract in any case*
 8 *in which the amendment to section (a) (4) (B) of such*
 9 *Act made by subsection (d) of section 201 of this Act is*
 10 *applicable.*

11 **SEC. (73)~~109~~ 110. RULES AND REGULATIONS.**

12 The Board may make such rules, regulations, and
 13 orders as it deems necessary or appropriate to carry out the
 14 provisions of this title.

15 **SEC. (74)~~110~~ 111. COMPLIANCE WITH REGULATIONS, ETC.**

16 No person shall be held liable for damages or
 17 penalties for any act or failure to act resulting directly or
 18 indirectly from his compliance with a rule, regulation, or
 19 order issued pursuant to this title, notwithstanding that any
 20 such rule, regulation, or order shall thereafter be declared by
 21 judicial or other competent authority to be invalid.

22 **SEC. (75)~~111~~ 112. APPLICATION OF ADMINISTRATIVE PRO-**
 23 **CEDURE ACT.**

24 The functions exercised under this title shall be ex-
 25 cluded from the operation of the Administrative Procedure

1 Act (60 Stat. 237) except as to the requirements of section
2 3 thereof.

3 SEC. (76)~~112~~ 113. APPROPRIATIONS.

4 There are hereby authorized to be appropriated such
5 sums as may be necessary and appropriate for the carrying
6 out of the provisions and purposes of this title. Funds
7 made available for the purposes of this title may be allocated
8 or transferred for any of the purposes of this title, with the
9 approval of the Bureau of the Budget to any agency of the
10 Government designated to assist in carrying out this title.
11 Funds so allocated or transferred shall remain available for
12 such period as may be specified in the Acts making such
13 funds available.

14 SEC. (77)~~113~~ 114. PROSECUTION OF CLAIMS AGAINST
15 UNITED STATES BY FORMER PER-
16 SONNEL.

17 ~~(78)~~Nothing in title 18, United States Code, sections 281
18 and 283, or in section 190 of the Revised Statutes (U. S. C.,
19 title 5, sec. 99) shall be deemed to prevent any person by
20 reason of service prior to January 1, 1954, in performance
21 of duties or functions required by this Act, from acting as
22 counsel, agent, or attorney for prosecuting any claim against
23 the United States: *Provided*, That such person shall not
24 prosecute any claim against the United States ~~(1)~~ involving
25 any subject matter directly connected with which such person

1 was so employed, or ~~(2)~~ during the period such person is
2 engaged in employment in a department or the Board.

3 *Nothing in title 18, United States Code, sections 281*
4 *and 283, or in section 190 of the Revised Statutes (U. S. C.,*
5 *title 5, sec. 99) shall be deemed to prevent any person by*
6 *reason of service in a Department or the Board during the*
7 *period (or a part thereof) beginning July 1, 1950, and*
8 *ending December 31, 1953, from acting as counsel, agent,*
9 *or attorney for prosecuting any claim against the United*
10 *States: Provided, That such person shall not prosecute any*
11 *claim against the United States (1) involving any subject*
12 *matter directly connected with which such person was so*
13 *employed, or (2) during the period such person is engaged*
14 *in employment in a Department or the Board.*

15 **TITLE II—MISCELLANEOUS PROVISIONS**

16 **SEC. 201. FUNCTIONS UNDER WORLD WAR II RENEGOTIA-** 17 **TION ACT.**

18 (a) **ABOLITION OF WAR CONTRACTS PRICE ADJUST-**
19 **MENT BOARD.**—The War Contracts Price Adjustment Board,
20 created by the Renegotiation Act, is hereby abolished.

21 (b) **TRANSFER OF FUNCTIONS IN GENERAL.**—All
22 powers, functions, and duties conferred upon the War Con-
23 tracts Price Adjustment Board by the Renegotiation Act
24 and not otherwise specifically dealt with in this section are
25 transferred to the Renegotiation Board.

1 (c) AMENDMENT OF THE RENEGOTIATION ACT.—Sub-
 2 section (a) (4) (D) of the Renegotiation Act is amended
 3 by inserting at the end thereof the following: “A net rene-
 4 gotiation rebate shall not be repaid unless a claim there-
 5 for has been filed with the Board on or before the date
 6 of its abolition, or unless a claim shall have been
 7 filed with the Administrator of General Services (i) on
 8 or before June 30, 1951, or (ii) within ninety days
 9 after the making of an agreement or the entry of an order
 10 under subsection (c) (1) determining the amount of exces-
 11 sive profits, whichever is later. A claim shall be deemed to
 12 have been filed when received by the Board or the Adminis-
 13 trator, whether or not accompanied by a statement of the
 14 Commissioner of Internal Revenue showing the amortiza-
 15 tion deduction allowed for the renegotiated year upon the re-
 16 computation made pursuant to section 124 (d) of the In-
 17 ternal Revenue Code.”

18 (79)(d) AMENDMENT OF THE RENEGOTIATION ACT.—
 19 Section (a) (4) (B) of the Renegotiation Act is amended by
 20 inserting before the period at the end thereof a semicolon and
 21 the following: “and there shall be allowed as an item of cost
 22 in any fiscal year, subject to the regulations of the Board,
 23 any excess in the preceding fiscal year of costs paid or in-
 24 curred with respect to receipts or accruals subject to the pro-
 25 visions of this section over the amount of such receipts or

1 accruals''. The amendment made by this subsection shall
2 be effective as of the date of the enactment of the Renegotia-
3 tion Act.

4 ~~(80)(d)~~ (e) TRANSFER OF CERTAIN FUNCTIONS.—All
5 powers, functions, and duties conferred upon the War Con-
6 tracts Price Adjustment Board by subsection (a) (4) (D)
7 of the Renegotiation Act, subject to the amendment there-
8 of by subsection (c) of this section, are hereby transferred
9 to the Administrator of General Services.

10 ~~(81)(e)~~ (f) FUNCTIONS AND RECORDS.—Each Secretary of
11 a Department is authorized and directed to eliminate the ex-
12 cessive profits determined under all existing renegotiation
13 agreements or orders by the methods enumerated in subsec-
14 tion (c) (2) of the Renegotiation Act in respect of all re-
15 negotiations conducted by his Department pursuant to dele-
16 gations from the War Contracts Price Adjustment Board.
17 The several Departments shall retain custody of the renegot-
18 tiation case files covering renegotiations thus conducted for
19 such time as the Secretary deems necessary for the purposes
20 of this section, and thereafter they shall be made available
21 to the Renegotiation Board for appropriate disposition. The
22 renegotiation records of the War Contracts Price Adjustment
23 Board shall become records of the Renegotiation Board on
24 the effective date of this section.

25 ~~(82)(f)~~ (g) REFUNDS.—All refunds under subsection (a)

1 (4) (D) of the Renegotiation Act (relating to the recompu-
 2 tation of the amortization deduction), all refunds under the
 3 last sentence of subsection (i) (3) of such Act (relating
 4 to excess inventories), and all amounts finally adjudged or
 5 determined to have been erroneously collected by the United
 6 States pursuant to a determination of excessive profits, with
 7 interest thereon in the last mentioned case at a rate not to
 8 exceed 4 per centum per annum as may be determined by
 9 the Administrator of General Services or his duly authorized
 10 representative computed to the date of certification to the
 11 Treasury Department for payment, shall be certified by the
 12 Administrator of General Services or his duly authorized
 13 representative to the Treasury Department for payment from
 14 such appropriations as may be available therefor: *Provided*,
 15 That such refunds shall be based solely on the certificate of
 16 the Administrator of General Services or his duly authorized
 17 representative.

18 ~~(83)(g)~~ (h) EXISTING POLICIES, PROCEDURES, ETC., TO
 19 REMAIN IN EFFECT.—All policies, procedures, directives, and
 20 delegations of authority prescribed or issued (1) by the War
 21 Contracts Price Adjustment Board, or (2) by any Secretary
 22 or other duly authorized officer of the Government, under
 23 the authority of the Renegotiation Act, in effect upon the
 24 effective date of this section and not inconsistent herewith,
 25 shall remain in full force and effect unless and until super-

1 seded, or except as they may be amended, under the author-
2 ity of this section or any other appropriate authority. All
3 functions, powers, and responsibilities transferred by this sec-
4 tion shall be accompanied by the authority to issue appropri-
5 ate regulations and procedures, or to modify existing pro-
6 cedures, in respect of such powers, functions, and respon-
7 sibilities.

8 ~~(84)(h)~~ (i) SAVINGS PROVISION.—This section shall not be
9 construed (1) to prohibit disbursements authorized by the
10 War Contracts Price Adjustment Board and certified pursu-
11 ant to its authority prior to the effective date of this sec-
12 tion, (2) to affect the validity or finality of any agreement
13 or order made or issued pursuant to law by the War Con-
14 tracts Price Adjustment Board or pursuant to delegations of
15 authority from it, or (3) to prejudice or to abate any action
16 taken or any right accruing or accrued, or any suit or pro-
17 ceeding had or commenced in any civil cause; but any court
18 having on its docket a case to which the War Contracts
19 Price Adjustment Board is a party, on motion or supple-
20 mental petition filed at any time within twelve months after
21 the effective date of this section, showing a necessity for the
22 survival of such suit, action, or other proceeding to obtain
23 a determination of the questions involved, may allow the
24 same to be maintained by or against the United States.

25 ~~(85)(i)~~ (j) RENEGOTIATION ACT NOT REPEALED.—Ex-

cept as by this Act specifically amended or modified, all provisions of the Renegotiation Act shall remain in full force and effect.

~~(86)(j)~~ (k) DEFINITIONS.—The terms which are defined in the Renegotiation Act shall, when used in this section, have the same meaning as when used in the Renegotiation Act, except that where a renegotiation function has been transferred by or pursuant to law the terms “Secretary” or “Secretaries” and “Department” or “Departments” shall be understood to refer to the successors in function to those officers or offices specifically named in the Renegotiation Act.

~~(87)(k)~~ (l) EFFECTIVE DATE OF SECTION.—This section shall take effect sixty days after the date of the enactment of this Act.

SEC. 202. PERIOD OF LIMITATIONS FOR RENEGOTIATION ACT OF 1948.

No proceeding under the Renegotiation Act of 1948 to determine the amount of excessive profits for any fiscal year shall be commenced more than one year after the mandatory statement required by the regulations issued pursuant to such Act is filed with respect to such year, or more than six months after the date of the enactment of this title, whichever is the later, and if such proceeding is not so commenced (in the manner provided by the regulations prescribed pursuant to such Act), all liabilities of the

1 contractor or subcontractor under such Act for excessive
2 profits received or accrued during such fiscal year shall
3 thereupon be discharged. If an agreement or order deter-
4 mining the amount of excessive profits under such Act is
5 not made within two years following the commencement
6 of the renegotiation proceeding, then upon the expiration
7 of such two years all liabilities of the contractor or sub-
8 contractor for excessive profits with respect to which such
9 proceeding was commenced shall thereupon be discharged,
10 except that (1) such two-year period may be extended
11 by mutual agreement, and (2) if within such two years
12 such an order is duly issued pursuant to such Act, such
13 two-year limitation shall not apply to the review of such
14 order by any renegotiation board duly authorized to under-
15 take such review.

16 **SEC. 203. AMENDMENT OF SECTION 3806 OF THE INTER-**
17 **NAL REVENUE CODE.**

18 Section 3806 (a) (1) of the Internal Revenue Code
19 is hereby amended by striking out subparagraphs (A),
20 (B), and (C) and inserting in lieu thereof the following:

21 “(A) The term ‘renegotiation’ includes any
22 transaction which is a renegotiation within the
23 meaning of the Federal renegotiation act applicable
24 to such transaction, any modification of one or more
25 contracts with the United States or any agency

1 thereof, and any agreement with the United States
2 or any agency thereof in respect of one or more
3 such contracts or subcontracts thereunder.

4 “(B) The term ‘excessive profits’ includes any
5 amount which constitutes excessive profits within
6 the meaning assigned to such term by the applicable
7 Federal renegotiation act, any part of the contract
8 price of a contract with the United States or any
9 agency thereof, any part of the subcontract price
10 of a subcontract under such a contract, and any
11 profits derived from one or more such contracts or
12 subcontracts.

13 “(C) The term ‘subcontract’ includes any pur-
14 chase order or agreement which is a subcontract
15 within the meaning assigned to such term by the
16 applicable Federal renegotiation act.

17 “(D) The term ‘Federal renegotiation act’
18 includes section 403 of the Sixth Supplemental
19 National Defense Appropriation Act (Public 528,
20 77th Cong., 2d Sess.), as amended or supplemented,
21 the Renegotiation Act of 1948, as amended or
22 supplemented, and the Renegotiation Act of 1951,
23 as amended or supplemented.”

24 **SEC. 204. SEPARABILITY PROVISION.**

25 If any provision of this Act or the application of any

1 provision to any person or circumstance is held invalid,
2 the validity of the remainder of the Act and of the applica-
3 tion of its provisions to other persons and circumstances
4 shall not be affected thereby.

Passed the House of Representatives January 23, 1951.

Attest:

RALPH R. ROBERTS,

Clerk.

Passed the Senate with amendments February 21 (leg-
islative day, January 29), 1951.

Attest:

LESLIE L. BIFFLE,

Secretary.

82^d CONGRESS
1ST SESSION

H. R. 1724

AN ACT

To provide for the renegotiation of contracts,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 21 (legislative day, JANUARY 29), 1951

Ordered to be printed with the amendments of the
Senate numbered

the Washington Times-Herald of February 21, 1951, which appears in the Appendix.]

DIVIDENDS FROM THE UN—EDITORIAL FROM THE WASHINGTON TIMES-HERALD

[Mr. LANGER asked and obtained leave to have printed in the RECORD an editorial entitled "Dividends From UN," published in the Washington Times-Herald of February 21, 1951, which appears in the Appendix.]

REV. MARTIN NIEMOELLER'S OPPOSITION TO REARMAMENT OF GERMANY—EDITORIAL FROM THE WASHINGTON POST

[Mr. LANGER asked and obtained leave to have printed in the RECORD an editorial entitled "Niemöller's Visit," published in the Washington Post of February 21, 1951, which appears in the Appendix.]

THE CURE FOR INFLATION—EDITORIAL FROM THE HAVILAND (KANS.) JOURNAL

[Mr. SCHOEPPPEL asked and obtained leave to have printed in the RECORD an editorial entitled "Production Is the Only Cure," published in the Haviland (Kans.) Journal of February 2, 1951, which appears in the Appendix.]

UNIVERSAL MILITARY SERVICE—EDITORIAL FROM THE TOPEKA STATE JOURNAL

[Mr. SCHOEPPPEL asked and obtained leave to have printed in the RECORD an editorial entitled "Do We Want Universal Service?" published in the Topeka State Journal of February 13, 1951, which appears in the Appendix.]

RELIGION'S PART—EDITORIAL FROM THE SOMERSET (PA.) DAILY AMERICAN

[Mr. MARTIN asked and obtained leave to have printed in the RECORD an editorial entitled "Religion's Part," published in the Somerset (Pa.) Daily American of February 17, 1951, which appears in the Appendix.]

GENERAL EISENHOWER'S EARLIER APPEARANCE BEFORE CONGRESS—ARTICLE FROM THE ARMY-NAVY-AIR FORCE JOURNAL

[Mr. MARTIN asked and obtained leave to have printed in the RECORD an article entitled "General Eisenhower's Earlier Appearance Before Congress," published in the Army-Navy-Air Force Journal of February 3, 1951, which appears in the Appendix.]

VANISHING SURPLUSES—EDITORIAL FROM THE WASHINGTON (PA.) OBSERVER

[Mr. MARTIN asked and obtained leave to have printed in the RECORD an editorial entitled "Vanishing Surpluses," published in the Washington (Pa.) Observer of recent date, which appears in the Appendix.]

PROPOSED AMENDMENTS TO SELECTIVE SERVICE ACT—EDITORIAL COMMENT

[Mr. JOHNSON of Texas asked and obtained leave to have printed in the RECORD editorials from the Washington News, the Washington Post, the Washington Star, and the Birmingham Post-Herald, regarding proposed amendments to the Selective Service Act, which appear in the Appendix.]

WAGE-PRICE FIASCO ANOTHER SYMPTOM OF ANARCHY—ARTICLE BY RALPH A. LEE

[Mr. McCLELLAN asked and obtained leave to have printed in the RECORD an article entitled "Wage-Price Fiasco Another Symptom of Anarchy," written by Ralph A. Lee, managing editor of the Southwest Times-Record, of Fort Smith, Ark., and published in the February 18, 1951, edition of that

newspaper, which will appear hereafter in the Appendix.]

THE ATLANTIC UNION RESOLUTION—EDITORIAL FROM THE BROOKLYN EAGLE

[Mr. KEFAUVER asked and obtained leave to have printed in the RECORD an editorial regarding the Atlantic Union resolution published in the January 18, 1951, issue of the Brooklyn Eagle, which will appear hereafter in the Appendix.]

RENEGOTIATION ACT OF 1951

The Senate resumed the consideration of the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes.

THE VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Illinois [Mr. DOUGLAS]. Under the unanimous-consent agreement, the time between now and 1:30 p.m. is to be equally divided, to be controlled by the Senator from Georgia [Mr. GEORGE] and the Senator from Illinois [Mr. DOUGLAS].

Mr. GEORGE. Mr. President, in the portion of the time which I shall use, which will be not more than 1 minute at this time, I am sending to the desk an amendment which does not directly affect the amendment offered by the Senator from Illinois; but I send the amendment to the desk at this time, and now state that I shall offer it as soon as it is in order to do so.

This amendment prohibits the Board from delegating its authority to grant permissive exemptions. The prohibition is outright. The Senate Finance Committee amendment prevents this power from being delegated to procurement officers, but the power could be delegated to an agency of the Government, as defined in the bill, which agency could, in turn, delegate such power to a person other than a procurement officer. While I believe the bill will establish adequate protection against abuse of delegation by taking this power out of the hands of procurement officers, since some question has arisen on this point, and in order to make the bill more agreeable to the committee itself, I shall offer the amendment, which will permit this power to be exercised only by the Board.

Mr. SALTONSTALL. Mr. President, will the Senator yield to me?

Mr. GEORGE. I yield only for a question, because I am sure all Senators realize that the time now is limited.

Mr. SALTONSTALL. Will the Senator yield for a question on the subject of exemptions, a matter which is very important to those who reside in my State?

Mr. GEORGE. Yes; I am glad to yield.

Mr. SALTONSTALL. I should like to ask the distinguished Senator from Georgia a question based on a telegram which was received this morning from the Boston Wool Trade Association.

On page 28 of the bill, under mandatory exemptions, subparagraph (2), which is the agricultural paragraph, I should like to ask the chairman of the Finance Committee if an exemption for "an agricultural commodity in its raw or natural state" includes ginned cotton and scoured wool?

Mr. GEORGE. I believe the Senator is referring to the mandatory exemp-

tions. The amendment before the Senate relates to permissive exemptions. So, we can discuss that subject at a later time. However, I do not think scoured wool will be exempt under the mandatory exemption. It was not exempted under the World War II statute.

Mr. SALTONSTALL. I thank the Senator.

Mr. CASE. Mr. President, will the Senator yield for a question?

Mr. GEORGE. I am glad to yield to the distinguished junior Senator from South Dakota.

Mr. CASE. As nearly as I can understand from the explanation which has been made—and I wish to be sure about this matter—I believe that the amendment now referred to will completely reserve to the Board itself the authority to grant permissive exemptions. Is that correct?

Mr. GEORGE. That is exactly correct; it prohibits the Board from delegating that power. The power must be exercised only by the Board itself.

Mr. CASE. I am very glad to hear that, because, as the Senator may recall, that was one question which I raised the other day in regard to the powers of the Board.

Mr. GEORGE. That is quite correct, and I have attempted to meet the very pertinent point the Senator raised in that connection, in order to improve the bill.

Mr. President, I now yield the floor, unless there are further questions.

Mr. FERGUSON addressed the Chair.

THE VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Michigan in the time of the Senator from Georgia? The time between now and 1:30, the Chair will say to the Senator from Michigan, is under the control of the Senator from Georgia [Mr. GEORGE] and the Senator from Illinois [Mr. DOUGLAS].

Mr. GEORGE. I understand that the Senator from Illinois has requested the Senator from Michigan to proceed in his stead.

Mr. FERGUSON. That is correct. Therefore, I wish to proceed now, in the time of the Senator from Illinois.

THE VICE PRESIDENT. The Senator from Michigan is recognized.

Mr. FERGUSON. The Senator from Illinois is busily engaged in a committee which he cannot leave at the moment; and he has yielded 10 minutes, at the present time, to the Senator from Michigan.

Mr. President, the Chairman of the Finance Committee has today sent to the desk an amendment which would preclude the board from delegating its powers of permissive exemption. In my opinion that would help the bill somewhat. As the bill now stands the authority for permissive exemptions can be delegated and redelegated until some minor employee emerges with the power. It might not be so bad if a contracting officer could have that delegated authority, because it may be said that he could use it to drive a better bargain in the original negotiations. But under the terms of the bill a contracting officer cannot receive the delegated power, al-

though almost anyone else can. And when we get to such a broad use of the power of permissive exemptions we open the door to the temptation, the pressure, and the favoritism that are the evils behind discretionary authority.

But, Mr. President, that improvement will not cure the defect in the bill which we are attacking in the motion to eliminate entirely the powers of permissive exemption.

As I view this problem and the theory of renegotiation, it is inaccurate to speak of contract renegotiations. That is not entirely correct. What we are talking about here is a renegotiation of profits and losses under a contract. Ordinarily, in America, we are all opposed to the fixing of profits. I certainly am. It is a step toward statism, when we move toward the fixing of profits. We understand that there are certain ideologies which do not favor profits, and under normal conditions profit fixing is no more than a furtherance of those ideologies.

But these are not normal conditions. We are in a state of emergency. We are letting Government contracts of many, many billions of dollars. In this state of emergency we have embarked upon a program of fixing prices, and fixing quotas; as a result we find ourselves in the position, in a way, of having outlawed the individual-enterprise system in America. We declare an emergency, and we in effect outlaw the individual enterprise system. At least we hog-tie it, because real competition is stifled. Once we start on the road of controls, we find ourselves in the position we occupy today.

The question then is, how are exemptions to be provided? I think we need certain controls, for if we say to a man who is in business, "We will provide you with the machinery, we will allow you to have the necessary tools, and therefore you will be able to make this product," and say to another man, "You cannot have the tools, you cannot make this article, because it is necessary for us to have controls", controls breed controls, and renegotiation is a necessary consequence of the circumstances.

The situation, in brief, is that under emergency conditions we have abandoned the automatic disciplines of our pricing system under free enterprise. Competitive bidding is impossible. The Government cannot say to a concern: "I don't like your price. I'll take my business across the street." It cannot say this because there is no place of business across the street free to make an offer. It is subjected to controls. Whatever tools of production it has are needed for another job.

So it is that the Government has to make its contracts on a negotiated basis. The urgency of the Government's requirements prevents it from shopping around. The same urgency does not permit satisfactory price arrangements. Possibilities of excessive profits in a non-competitive situation of that sort are obvious. Thus we go to a policy of renegotiation. The theory of renegotiation is that no one shall make an exorbitant profit out of Government con-

tracts awarded in these circumstances of urgency and emergency.

Having adopted the theory of renegotiation—and I am one who has done so, however reluctantly and however regretfully, the question is whether there shall be exemptions.

In a renegotiation of profits it seems to me that when the first step is taken and the theory of profit limitations through renegotiation is adopted, exemptions should not be allowed. Once exemptions are allowed, there is a breaking down of the rule originally conceived of as necessary in order to control profits. If there is to be renegotiation, then the only thing to do is renegotiate, straight across the board.

If the new amendment offered by the chairman of the committee should be agreed by the Senate, only the board could allow an exemption from renegotiation, except as to exemptions which have already been provided and fixed in the bill.

Mr. ROBERTSON. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER (Mr. HOLLAND in the chair). Does the Senator from Michigan yield to the Senator from Virginia?

Mr. FERGUSON. I yield.

Mr. ROBERTSON. The Senator will recall that on Monday the Senate adopted an amendment offered by the distinguished Senator from Arkansas [Mr. McCLELLAN] providing that no contracts shall be renegotiated unless they have a direct and immediate effect upon the defense effort.

Mr. FERGUSON. That is correct.

Mr. ROBERTSON. I should like to have the Senator explain to the Senate how the Board could operate under this bill in view of the provision that a contract must have an immediate and direct effect upon the defense effort. That includes housing, which is named in the bill. It includes a synthetic-rubber plant, all of whose products may go into civilian use, and it includes all hydroelectric plants and things of that kind which are now in process of building. All those come under this bill. It must be determined that a contract has an immediate effect on the defense effort, and at the same time it is necessary for the Board to go into all the minor details. When it is thought unnecessary or not feasible to renegotiate, without the Douglas amendment that determination could be made. But I should like to have the Senator tell us how in the world a board is going to renegotiate more than \$50,000,000,000 worth of Government contracts a year, with this limitation, on the one hand, and with its hands tied by the Douglas amendment, on the other.

Mr. FERGUSON. Mr. President, I think we come down to this proposition: the objection of the junior Senator from Virginia is that the total amount of contracts is beyond the capacity of man to renegotiate. The Senator says that \$50,000,000,000 is so large a sum that it is impossible to renegotiate the contracts. I start with the premise that the sum of \$50,000,000,000, which is in-

volved in the letting of the contracts, is so vast as to be almost beyond the power of the human mind to contemplate. I, therefore, think and I stress that it should not be within the power of a group of men to let such enormous contracts unless there is to be a renegotiation. By renegotiation it is contemplated that there will be a checking up after the fact upon what a contract officer has done, when he had neither the time nor the capacity to obtain competing bids, as a result of certain controls. I conclude that all contracts should be renegotiated in the future if the public interests are to be best served.

Mr. ROBERTSON. Mr. President, will the Senator yield for another question?

Mr. FERGUSON. I yield to the Senator.

Mr. ROBERTSON. The position of the junior Senator from Virginia, as he stated on this floor last August, and as he again stated last Monday, is that the key to this situation is an independent board composed of the finest, ablest men who can be found, men who have a sense of patriotism and of public duty, and who would be willing to serve at a personal sacrifice in the emergency. The junior Senator from Virginia thinks the Senate made a mistake in agreeing to a modification of the House language regarding the independent board, assuming that we would get the kind of men I have referred to. Certainly we ought to have men of that type.

If we got that kind of board, we certainly would not want them to be placed in the impossible position of determining what is an immediate and direct defense activity and what is not; neither would we want to tie their hands regarding numerous unnecessary details, where sound judgment can eliminate them and give them an opportunity to concentrate on the big work. The Senator will recall that in the last year a board—not the kind of board I am proposing now—saved us \$10,000,000 by contract renegotiation, and possibly much more than that, in an indirect way, from the repricing work it did.

Mr. TAFT. The Senator meant \$10,000,000,000, I believe.

Mr. ROBERTSON. I meant to say \$10,000,000,000. I notice that in the Record for Monday I was quoted as saying "million," though I thought I had said "billion" then. But perhaps the Official Reporter was correct. If I have made the same mistake twice, please let me emphasize that it is billions. I thank the Senator from Ohio.

Mr. FERGUSON. Mr. President, I sympathize with the view that, after all, it is going to be a practical impossibility for the Board to determine what is a defense contract and what is not a defense contract. However, I do not see how it makes any difference at all, in the case of a contract for a dam or an airport, whether it is directly connected with the defense or is not. The basic fact is that the Federal Government is spending a vast amount of money under abnormal conditions. We have so many controls that competitive free enterprise to a large extent has been eliminated.

As a result the Government cannot negotiate its contracts on a competitive basis to eliminate excessive profits. Therefore we must have renegotiation of profits. That is the theory of renegotiation, and that is what this bill is intended to provide.

Once we adopt that theory of renegotiation, then we should renegotiate across the board. That is what I have tried to say heretofore on the floor in contending that there should be neither mandatory nor permissive exemptions. I think all contracts ought to be renegotiated in such a period as this. I contend further the limit should not be fixed at \$500,000. It is too high.

I am particularly opposed to permissive exemptions, because we shall find that there will be, and there cannot help but be, claims of favoritism, a thing which breaks down the public morale when the Government comes to contract for goods and services. We have had an example in the case of the RFC Board, composed of five men; and the men who are to be appointed to the renegotiation board are to be appointed by the same Chief Executive who named the Board of the RFC. The mere fact that a man may be named by the President and approved by the Senate does not indicate that he has the necessary will power to resist temptation.

It should be our endeavor, when we adopt a policy of the renegotiation of profits, to proceed in a way which will not permit favoritism or claims of favoritism. We should, in fact, be seeking to remove all the pressures which may possibly lead to favoritism. Permissive exemptions are an open invitation to pressures.

Short of eliminating permissive exemptions entirely, there is another midway step toward eliminating pressures upon the board. That is, that exemptions are to be granted only by virtue of the class in which the contractors fall, so that those who deal in a certain class of goods would have an exemption, rather than that individuals in particular classes would have exemptions. That would help relieve pressure upon the board for favorable treatment in individual cases.

As a Member of the Senate I assisted in conducting hearings of the War Investigating Committee on World War II experience with renegotiation. We concluded any exemptions were undesirable. We found that profits up to 85 percent occurred in connection with some of the contracts where an exemption was allowed.

The PRESIDING OFFICER (Mr. HOEY in the chair). The Senator's 10 minutes have expired.

Mr. FERGUSON. Then I yield the floor at this time.

Mr. GEORGE. Mr. President, I yield such time to the Senator from Ohio as he wishes.

Mr. HOLLAND. Mr. President, I wonder if the Senator from Ohio would yield to the Senator from Florida to address a question to the chairman of the Committee on Finance.

Mr. TAFT. On the subject under discussion; yes.

Mr. HOLLAND. If the senior Senator from Georgia would permit, I should like to address a question to him for the RECORD.

In the event the Board, under the permissive exemption now provided in the bill, had the power to exempt, in its discretion, an individual contract or a class of contracts, in the event it were later discovered that fraud had been perpetrated on the Government, would the Board have authority to reassume jurisdiction in such a case?

Mr. GEORGE. Undoubtedly, fraud would always permit the reopening of the agreement. And the bill so provides.

Mr. HOLLAND. But if an actual order is entered by the Board, in its discretion, to exempt a single contract or a class of contracts, and it is later shown, at any stage, that the Board was imposed upon and that fraud was perpetrated, is the Senator clear that the Board would have authority in such a case to recapture complete jurisdiction to handle the matter?

Mr. GEORGE. I have no doubt about it.

Mr. HOLLAND. I thank the Senator.

Mr. TAFT. Mr. President, I have only a word to say in opposition to the amendment offered by the junior Senator from Illinois [Mr. DOUGLAS].

The matter of renegotiation is an extraordinary remedy. Frankly, I opposed the provision for renegotiation altogether at the beginning of the last war, because it offended every sense of justice, particularly where there was no clause in the contract under consideration providing for it. But the Congress provided that in spite of a written contract, and in spite of provision for compensation expressly written into the contract, after the contract was performed the Government could say to the contractor, "You made too much money. We are going to take part of it away from you, and we will not pay the amount we contracted to pay."

The whole basis of renegotiation was, and is, entirely in the discretion of the Board. There were no principles upon which renegotiation could be based, and so the matter could not have been handled in connection with a tax law of some kind. The whole power of renegotiation is an extraordinary remedy, and the law puts the business people of this country and others completely at the mercy of the Board set up. There is no question about that. The Board would have practically complete power to say that a company has made excessive profits, and fix the amount of reimbursement.

The only question now is whether the Board can go further, and instead of finding that there are excessive profits, can say, "Here are contracts in connection with which we do not believe there is any serious danger of excessive profits being made, so we will exempt them and save ourselves going into an examination and investigation."

We are confiding no more to the discretion of the Board in giving the power of exemption than we are in the bill giving them power to fix limits of profits the Board desires to fix. Therefore, so

far as the danger of dishonesty is concerned, the danger is just as great whether the Board can exempt the companies entirely, or can fix the amount of the excess profits according to its arbitrary discretion.

When we give them power, we must admit there is a possibility of corruption, but we must also assume that those who are appointed and confirmed are honest. We do not afford any remedy against corruption by taking away from the Board the power to provide that certain kinds of contracts need not be renegotiated. Unless we give this power, the enforcement of this law is almost impossible administratively. There are hundreds of thousands of individual contracts of every kind. We have probably exempted the greater number in fixing a limit of \$500,000 a year, which may be exempted. But there are still a great many and we would practically be forcing the Board to cover the whole field covered by the purchasing departments in dozens of departments of the Government and go over their contracts again.

I believe that unless the Board did have the power to make exemptions of the kind provided, they would be simply swamped by the tremendous amount of work, and the expenses of the Board would begin to equal the expenses of other departments. It seems to me the right of exemption is necessary unless the Board is to be swamped.

We still have thousands of cases in the Tax Court, which acts as an administrative appeals body. Even with the limitation which existed in the World War Act it is 6 years after the Second World War and thousands of cases are still unsettled.

Furthermore, this right was given in time of war. We do not at the present moment face war. We face something less than war. We face a period of great governmental contract operation. But I cannot see, in the consideration of the pending amendment, or any other amendment, perhaps, the necessity of making the law stronger than it was made during the Second World War. The provision was made on the theory that contractors should not make profits out of war. That was the basis of it.

Mr. KEM. Mr. President, will the Senator from Ohio yield?

Mr. TAFT. I yield to the Senator from Missouri.

Mr. KEM. I recognize, of course, that no war has been declared, but does not the Senator feel that war is actually under way in Korea?

Mr. TAFT. I do feel that, but it is not a war which entails any change in the economy of this country. As a matter of fact, if the Senator will look into the expenses of the Federal Government, he will find that for the 7 months running from July 1 to February 1, the expenses of the Federal Government amounted to \$1,400,000,000 less than for the same 7 months beginning July 1, 1939, and that the only increase is an increase of about a billion dollars in the expenses of the Armed Forces. So that it is obvious that the Korean War has not created an economic situation which particularly affects the Government's economic policy.

There are other provisions in which the House proposed somewhat stricter language than that found in the original law. The Senate committee, in most cases, went back to the provision of the World War renegotiation Act. That act was well administered; it was possible to administer it, except for the long hangover of cases still pending. But in general it was well administered. It resulted in the recovery of \$10,000,000,000 of excess profits, and I see no reason why at the present time we should impose a stricter rule than the rule imposed during World War II.

Mr. DOUGLAS. Mr. President, I yield 5 minutes to the senior Senator from Maine [Mr. BREWSTER].

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Mr. BREWSTER. Mr. President, it is a pleasure occasionally to disagree with my colleague, the senior Senator from Ohio [Mr. TAFT]. With all due regard to the respect which we entertain for him and for his conclusions, as we do for all other Members of the Senate, I am moved in this matter not merely by the studies of our committees, which have been necessarily brief, but by the very extensive investigations of the operation of the renegotiation law during the last war.

The committee of which I was chairman went into the subject extensively. It thoroughly investigated the actual operation of the law. It had the benefit of the views of the gentleman who had been chiefly responsible for its administration, Brig. Gen. Maurice Hirsch, of Houston, Tex. He had the opportunity—I do not know that I should say the distinction—of being educated, with the senior Senator from Ohio [Mr. TAFT] and myself in the same class at Harvard Law School, where we were also associated with the senior Senator from Missouri [Mr. KEM].

Mr. President, in this particular matter it seems to me that very great respect may well be accorded to the views of General Hirsch, who came to the subject fresh from a very distinguished legal career. He administered the law, as has been said, to the very great satisfaction of all concerned in what was the Truman War Investigating Committee and the committee which followed its activities later on. The staff was continuously impressed with the very broad understanding which General Hirsch demonstrated of the purpose of the act and of the practicability of its administration. It was the well considered conclusion of General Hirsch, who had administered his powers with practically no criticism, that the one great recommendation which he would make was the elimination of the so-called permissive exemptions. It seems to me that he must have been led to make the recommendation as the result of his intimate experience with the administration of the law, and that it was such experience which persuaded him to recommend that the Board or Administrator be relieved of the pressures which would almost inevitably result.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. BREWSTER. I yield.

Mr. TAFT. Does not the Senator from Maine feel that General Hirsch was dealing with the condition which prevailed under the previous law, when exemptions could be granted by the very officers who were letting the contracts? That was the condition under the previous law.

Mr. BREWSTER. Yes.

Mr. TAFT. We have eliminated that condition. Under the pending bill only the Board could grant the exemption. The Board would not be able to do it except by classes.

Mr. BREWSTER. Mr. President, my time is limited. General Hirsch certainly did not stress any such distinction insofar as my recollection goes, or the reports indicate. He merely felt that it was unwise and undesirable. It seems to me since that time even more persuasive arguments have been made. In spite of the suggestion that the very broad discretion of the Board affords opportunity for it to do almost anything it desires in connection with profits, it seems to me that there is an extraordinary difference between saying to a firm, "We will not even look into your affairs," and looking into them and saying to the concern, "We find and determine that 10, 15, or 20 percent is a proper profit." If we have the benefit of the considered conclusions of the Board as to what is a fair profit, there is very much less danger of excessive abuses arising in the administration of the act.

Former Senator Walsh once said, "If a power is to be denied because it may be abused, government must cease." It is perfectly true that we must guard great powers. However, after the recent revelations of abuses of administrative authority, and when we realize both the power and the influence of the interests which are seeking to pervert great defense activities purely to selfish ends, it seems to me we must preserve all the safeguards we can preserve in the administration of an act such as the one now proposed. I have far less concern with a possible abuse of power to determine profits than I have with the power to exempt from profit. In our investigations we found it was the practice of the Board, while not being limited as to the amount of profits, to apply renegotiation to categories of cases, and with regard to circumstances, on the basis of 10 percent, 12 percent, or 15 percent.

Therefore, Mr. President, it seems desirable that the exemptions should be wiped out.

Mr. GEORGE. Mr. President, I yield 5 minutes to the Senator from South Dakota.

Mr. CASE. Mr. President, far be it from me to presume to say anything which would minimize the necessity for and the importance of renegotiation when we are dealing with large defense contracts entered into in a hurry.

What I am about to say I shall say only because of the position which I take on the amendment. Renegotiation was introduced into Federal legislation under

an amendment which I offered in the House of Representatives to the sixth supplemental appropriation bill in 1942. It was first applied to the Department of the Secretary of War, the Department of the Secretary of the Navy, and their establishments. Subsequently, I offered an amendment on another bill which extended the provisions to the Reconstruction Finance Corporation. When the act was amended in 1943 I appeared before the House Ways and Means Committee to make some suggestions for the improvement of the act, based upon experience which we had had with the act up to that time. The existing renegotiation statute of 1948 stems from the amendment which I offered to the supplemental appropriation bill in the spring of 1948.

I mention this only to illustrate the fact that I want renegotiation to succeed. I do not want it to bog down. I fear that if we eliminate the authority of the Board to exempt a limited area of contracts under the permissive exemption section, we will risk the danger of renegotiation bogging down by causing the Board to examine contracts which it knows, by reason of their terms, present no field in which to operate.

The provision for exemption is limited in this bill. I have no doubt that Senators have quoted Mr. Hirsch correctly but I think he must have had in mind the broad authority of the Secretaries under the old act. I also recall what Mr. Karker and Mr. Dodge, the earlier Administrators of the Price Adjustment Board, said. They all recognized the fact that we were dealing with an extraordinary power, which should be exercised in such a way as to preserve as much as possible free enterprise, and at the same time expedite procurement for the Government in a national emergency.

I do not know whether Mr. Hirsch had the suggestion made to him that the proposed permissive exemptions were a limitation of the broad exemption power which the Secretary had in the prior act. In spite of that fact, there were more than \$10,000,000,000 worth of recoveries, as has been pointed out, certainly a worthwhile result.

The presently proposed permissive exemption section does not give unlimited authority to the Board to exempt. Only in five areas may it be exercised. The first is contracts or subcontracts to be performed outside the territorial limits of continental United States or Alaska. Senators who are familiar with the problems which arise in connection with construction work in Alaska and in some other places of the world will realize that on certain occasions it is necessary to employ a foreign contractor. I would favor renegotiation of contracts with foreign contractors whenever it seems worth while or can be productive. But it seems to me not unwise to grant to the Board authority to permit exemptions in such cases where it finds that renegotiations would be fruitless or would defeat the possibility of getting the needed job.

The second permissive exemption relates to contracts or subcontract under

which, in the opinion of the Board, the profits can be determined with reasonable certainty when the contract price is established.

The third class consists of contracts or subcontracts or performance thereunder during a specified period or periods when, in the opinion of the Board, the provisions of the contract are otherwise adequate to prevent excessive profits. Why should we require the Board to use its personnel to go into that class of contracts, when it has an ample field in which to apply its facilities—namely, to contracts which really need renegotiation?

The fourth class of permissive exemptions consist of those where renegotiation would jeopardize secrecy required in the public interest. Opinion may vary as to whether essential secrecy is involved in a particular case. But the amendment which the Senator from Georgia has said would be offered, to prevent the Board from delegating the power to pass on exemptions should meet the situation. A board whose members would be appointed by the President and confirmed by the Senate should be competent and trustworthy enough to determine when legitimate security is involved.

The fifth class involves subcontracts in which it is not administratively feasible, in the opinion of the Board, to determine and segregate the profits attributable to such subcontract or group of subcontracts from the profits attributable to activities not subject to renegotiation. In other words, this last provision lets the Board save its energies when examination shows that the Board could not distinguish between profits made from ordinary business and war business. There is real work to do where results can be obtained; the energies of the Board should be free to concentrate in fruitful fields.

Mr. President, under all the circumstances I hope we will permit the Board to operate, and not let it bog down.

Mr. GEORGE. Mr. President, I inquire if the Senator from Illinois wishes to speak at this time?

Mr. DOUGLAS. Mr. President, may I ask how much time has been taken by the respective sides?

The PRESIDING OFFICER. The Senator from Illinois has 10 minutes left.

Mr. DOUGLAS. And the opponents?

The PRESIDING OFFICER. The Senator from Georgia has about 10 minutes.

Mr. DOUGLAS. I am very glad to defer to the Senator from Georgia.

Mr. GEORGE. I do not mind proceeding at this time.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. GEORGE. Mr. President, obviously 10 minutes does not suffice for a full discussion; but this is, in a sense, a narrow amendment. The motion is to strike the so-called permissive exemption section from the bill. That is the section which merely permits the Board, in its sound discretion, to exempt from

renegotiation individual contracts or contracts by classes.

The House wrote these provisions into the bill. It wished to restrict the permissive power of the Board to make exemptions, except for five classes as stated in the bill. The House eliminated certain permission exemptions which were carried in the old law, the wartime act, under which contracts for standard commercial articles could be expressly exempted. The House did not include that provision in its bill. Neither has the Senate included it. The five particular classes of contracts which may be exempted by the Board entirely in its discretion are set forth in subsection (d) of section 106, on pages 34 and 35 of the bill.

Attention has already been called to the fact that the Renegotiation Act itself is an extraordinary act in that it gives to a board the power to undo a solemn contract made by the Government of the United States with one of its citizens. That power is practically absolute. The Board may look at a contractor's profit in his fiscal year and conclude that some are excessive. It makes no difference under what circumstances the contract was made. The Senate should bear in mind that during the execution of the contract the procurement officers of the Government have the right to reprice the very articles which go into the contract. They have the right to redetermine the value of the articles or services. It is only after the contract has been negotiated that the Board which we are now considering in this bill has any jurisdiction. The Board then determines whether the profits under the total contracts of the contractor for the entire fiscal year are in excess of a fair and reasonable profit, or are exorbitant. The Board does not look to a single contract. There is a limitation in the bill on the gross amount which will make renegotiable the profits of any contractor.

As a fundamental principle underlying this matter, it seems to me that we must bear in the very forefront of our minds that we are undertaking by this bill to create a strong and independent Renegotiation Board, vested with broad administrative powers. The appointment of the Board, whether accomplished in the manner provided by the House or in the manner provided by the Finance Committee, is surrounded by such safeguards that we may feel reasonably assured, I believe, that only men of the highest caliber will be appointed to the Board. It would be anomalous to attempt to create a strong Board and at the same time to pin its arms by its sides. We cannot create strength and weakness at the same time. We cannot demand judgment from the Board and deny it discretion. In the opinion of the Finance Committee, it is imperative that the Board be given authority and opportunity to determine within specified areas that renegotiation should not be applied to certain contracts or subcontracts, or to certain classes of contracts or subcontracts, either because renegoti-

ation is not necessary in those cases, or is not administratively feasible, or should not be undertaken because it would not be practical or make good business sense to do so.

I think we may best understand the need for retaining permissive exemption authority in the Board by considering several illustrative cases. Take, for example, a contract entered into by the Air Force for an item to be manufactured by a Swiss contractor. The difficulties of conducting renegotiation in such a situation are fairly evident. It would be difficult and burdensome for the Board to obtain from the Swiss contractor all of the voluminous financial and operating data required for renegotiation and to conduct conferences with executives of the Swiss firm, and, in the event the proceedings resulted in an impasse requiring the issuance of a unilateral determination of excessive profits by the Board, it would be difficult to enforce that order against the Swiss firm by any of the various means provided in the bill. The expense incident to proceedings of this sort would also be a consideration. It would be preferable, it seems to me, if the Board, by the use of its exemption power, could contribute its good offices to bringing about a proper price for such a contract in lieu of undertaking the burdensome and expensive proceedings I have just described.

As another example, consider the case of a consultant employed by one of the departments to render expert personal services, let us say, of a scientific nature, in connection with the defense effort. Such a contract, under the terms of the bill, would be subject to renegotiation, although under the pay scale now permitted by law such a contractor could never aggregate a sufficient amount of money to make him subject to renegotiation for a fiscal year. Unless the Board had the authority to exempt such contracts from renegotiation, the staff of the Board would be put to the trouble and expense of sending the necessary forms to each such individual, and each such individual would be put to the trouble, expense, and irritation of having to fill out the necessary form to indicate that he was not subject to being renegotiated for the year. The power to exempt such contracts is obviously necessary, and if we are to deal fairly with our citizens we certainly ought to entrust his power to the Board.

A further illustration might involve a company which furnishes, as a subcontractor, items of a character which flow freely in trade, for example, nuts, bolts, and other common items. Even at the height of a war such products, when purchased by a contractor from his supplier, are used both in the production of war or defense goods and also in the manufacture of his regular commercial products. It is not always possible, and certainly it is never easy, for a contractor in such circumstances purchasing these items from various suppliers to identify the source of any particular quantity used on a given job. It follows, then, that the suppliers of these items would

have difficulty in determining and segregating the profits attributable to his sales for defense purposes from his profits attributable to his sales for non-defense purposes. This problem became very acute during the early administration of the Renegotiation Act of 1948 and imposed great hardship both upon suppliers of such items and upon the renegotiation agencies. The situation was relieved only by the use of the permissive exemption authority contained in that act. Unless similar authority is vested in the Renegotiation Board contemplated by the present bill, there will be no way of alleviating this difficulty in the future.

These few illustrations will serve to indicate generally the type of exemptions which the Board would issue pursuant to the authority contained in the bill. It is not intended or anticipated that the Board will indiscriminately exempt contracts, either with individuals or generally, which would result in an escape of large amounts of excessive profits from renegotiation or in favoritism as between contractors and subcontractors.

So, Mr. President, the committee is strongly against the elimination of this permissive portion of the bill.

Mr. DOUGLAS. Mr. President, no one can overestimate the importance of the issue which we have before us. The purchases of the Federal Government during the ensuing fiscal year will probably amount to between forty billion and fifty billion dollars, and it is likely that the same annual volume of purchases will continue for years to come. Involved in this issue therefore is the question of whether we will provide proper safeguards to see that excessive profits are not made, and that the American taxpayer is protected.

Mr. President, nothing can do more to destroy morale in a period either of defense mobilization or of war itself, than a contrast between great profits made by the few on the one hand and the hardships suffered by many upon the other. If we are to go into this period of defense preparations and possible eventual war, it is necessary to provide every safeguard to assure that there shall be a substantial equality of sacrifice, and that no particular group in the community shall make excessively large profits—especially at the expense of the Government.

The difficulty which procurement agencies frequently face when they place huge defense and war contracts is that they do not know in advance what the costs will be. In many cases the items which are ordered have not previously been produced, or upon which past experience has been slight. Yet if these agencies wait and draw a contract so carefully as to protect the Government in every conceivable contingency, valuable time will be consumed, production will be delayed, and the preparedness of the country will be diminished.

So the device of renegotiation has been hit upon in order to permit procurement agencies to make contracts which are initially favorable to the suppliers, fa-

vorable to the firms which are selling to the Government—liberal contracts as to price, and so forth. Then, if later it develops that the prices are excessive, and the costs have gone down much below what was expected originally, and if the profits prove to be excessive, the contracts can later be renegotiated to permit only a fair and reasonable profit to be made.

The procedure for this, on the basis of the experience in the last war, is that the Renegotiation Board conducts a preliminary audit to see whether or not the gross profits seem to be excessively large. If they do not seem to be too large, then renegotiation is not carried out. But if they do seem to be excessively large, then the Renegotiation Board goes into the circumstances of the particular contract. I think this is probably about as wise a device as we could develop in the very difficult situation in which we are placed.

But the Renegotiation Act can be made worthless by opening up so many exemptions that it will not apply to a sufficient proportion of war contracts. I am very frank to say that I think altogether too many exemptions are made in this measure. There is a wide range of mandatory exemptions which we are not discussing at this time, but, in addition, there is a wide range of permissive exemptions. I should like to call the Senate's attention once again to clause (3), which gives to the Board, prior to production and prior to cost experience, the right to exempt any contract from renegotiation at the time the contract was made or shortly thereafter if in the opinion of the Board ample provision was made to protect the Government.

The Board cannot tell in all circumstances then whether or not ample provision has been developed to protect the Government because it will not know in advance what the cost will be. But business firms will come forward—we can be quite certain of that—and will ask for the exemptions, and will have their influence peddlers working on the Board, saying, "Our case is different. Do not subject us to renegotiation." The political, financial, and economic pressure on the Board will be great. Its members will have to be men of steel to resist these pressures. There will be a great temptation to use fraud. Even if the members be men of steel, they will spend a large part of their time fending off those who ask for exemptions rather than getting on with the work promptly.

Mr. FERGUSON and Mr. KILGORE rose.

Mr. DOUGLAS. Mr. President, I have only a brief amount of time left. I should like to finish my statement if I can. Then I shall be glad to yield.

The able Senator from Georgia and the able Senator from Ohio say that if we renegotiate all contracts, or if the right be given to renegotiate all of them, there will be so much work that the Board will be swamped. I should like to point out that there is a dollar exemption. In the House bill it is \$100,000 and in the Senate bill it is \$500,000. I think the first is too low and the second too high. But

the small firms will be exempted. Their cases, which are large in number, will not come up.

Then, I should like to point out that the Renegotiation Board can conduct a preliminary audit and after production and after costs have been ascertained, can determine whether or not renegotiations should be carried out. This preliminary audit does not take much time. It can be done rather briefly from sworn profit and loss statements of the company as a whole. Then if the profits seem too large, and only in that case, will they proceed to detailed renegotiation.

Mr. President, I think it is vitally important that we leave open to carelessness and fraud as few loopholes as possible. Clause (3) and certain other clauses open the gate wide for wholesale exemptions involving billions of the taxpayers' dollars.

I now yield to the Senator from Michigan.

Mr. FERGUSON. Mr. President, I was wondering if, in the Senator's opinion, the Board could properly allow an exemption unless it had in effect renegotiated the profits to ascertain whether or not they were exorbitant. That is the only reason for providing renegotiation, and the absence of exorbitant profit is the only justification for granting exemptions.

Mr. DOUGLAS. There is the precise point. This clause would permit the Board to grant exemptions in advance before any production was brought about and before any preliminary examination of profit was carried through.

Mr. FERGUSON. Mr. President, will the Senator yield for another question?

Mr. DOUGLAS. I yield.

Mr. FERGUSON. I was out of the room for a short time and did not hear the Senator's entire statement. I wondered whether the Senator discussed permissive exemption No. 1—"any contract or subcontract to be performed outside the territorial limits of continental United States or in Alaska"? Does the Senator realize that under contracts performed by local corporations in the United States, if 80 percent of their business is done outside continental United States they do not even pay income taxes? Now it is proposed that merely because a contract is outside the United States that is a reason why it should not be renegotiated. In other words, if a contract is obtained outside the United States, the sky is the limit. If 80 percent of the total business is outside continental United States, it is not even necessary to pay income tax. Does the Senator know of any reason why there should be any such exemption?

Mr. DOUGLAS. I do not. I am grateful to the Senator from Michigan for bringing forward this additional argument.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired. All time has expired.

The question is on agreeing to the amendment offered by the Senator from Illinois [Mr. DOUGLAS]. On this ques-

tion the yeas and nays have already been ordered, and the clerk will call the roll.

Mr. DOUGLAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Hayden	Martin
Anderson	Hendrickson	Maybank
Bennett	Hennings	Millikin
Brewster	Hickenlooper	Monroney
Bricker	Hill	Morse
Bridges	Hoey	Mundt
Butler, Md.	Holland	Murray
Butler, Nebr.	Humphrey	Neely
Byrd	Hunt	O'Connor
Cain	Ives	O'Mahoney
Capehart	Johnson, Colo.	Pastore
Carlson	Johnson, Tex.	Robertson
Case	Johnston, S. C.	Russell
Chapman	Kem	Saltonstall
Clements	Kerr	Schoeppel
Connally	Kilgore	Smathers
Cordon	Knowland	Smith, Maine
Douglas	Langer	Smith, N. J.
Duff	Lehman	Smith, N. C.
Dworshak	Lodge	Stennis
Eastland	Long	Taft
Ecton	McCarran	Thye
Ferguson	McCarthy	Tobey
Flanders	McClellan	Watkins
Frear	McFarland	Wherry
George	Magnuson	Wiley
Green	Malone	Williams

The PRESIDING OFFICER. A quorum is present.

The question is on the adoption of the amendment offered by the Senator from Illinois. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. JOHNSON of Texas. I announce that the Senators from Connecticut [Mr. BENTON and Mr. McMAHON] are necessarily absent.

The Senator from New Mexico [Mr. CHAVEZ] is absent on public business.

The Senator from Iowa [Mr. GILLETTE] is absent by leave of the Senate.

The Senator from Tennessee [Mr. McKELLAR] is absent because of illness.

The Senator from Louisiana [Mr. ELLENDER], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. KEFAUVER], and the Senator from Alabama [Mr. SPARKMAN] are absent on official business.

The Senator from Tennessee [Mr. KEFAUVER] is paired on this vote with the Senator from Louisiana [Mr. ELLENDER]. If present and voting, the Senator from Tennessee would vote "yea," and the Senator from Louisiana would vote "nay."

I announce further that if present and voting, the Senator from Arkansas would vote "yea."

Mr. SALTONSTALL. I announce that the Senator from Idaho [Mr. WELKER] is absent on official business.

The Senator from Illinois [Mr. DIRKSEN], who is absent on official business, is paired with the Senator from North Dakota [Mr. YOUNG], who is absent by leave of the Senate on official business. If present and voting, the Senator from Illinois would vote "nay" and the Senator from North Dakota would vote "yea."

The Senator from Indiana [Mr. JENNERS] is necessarily absent.

The Senator from California [Mr. NIXON] is absent because of illness.

The Senator from Michigan [Mr. VANDENBERG] is absent by leave of the Senate.

The result was announced—yeas 42, nays 39, as follows:

YEAS—42

Aiken	Hennings	Morse
Anderson	Hickenlooper	Mundt
Bennett	Hill	Murray
Brewster	Humphrey	Neely
Bridges	Hunt	O'Connor
Cain	Ives	O'Mahoney
Clements	Kem	Pastore
Cordon	Kilgore	Saltonstall
Douglas	Langer	Schoeppel
Dworshak	Lehman	Smathers
Ferguson	Lodge	Thye
Flanders	Long	Tobey
Green	Magnuson	Watkins
Hendrickson	Monroney	Wiley

NAYS—39

Bricker	George	Malone
Butler, Md.	Hayden	Martin
Butler, Nebr.	Hoey	Maybank
Byrd	Holland	Millikin
Capehart	Johnson, Colo.	Robertson
Carlson	Johnson, Tex.	Russell
Case	Johnston, S. C.	Smith, Maine
Chapman	Kerr	Smith, N. J.
Connally	Knowland	Smith, N. C.
Duff	McCarran	Stennis
Eastland	McCarthy	Taft
Ecton	McClellan	Wherry
Frear	McFarland	Williams

NOT VOTING—15

Benton	Gillette	Nixon
Chavez	Jenner	Sparkman
Dirksen	Kefauver	Vandenberg
Ellender	McKellar	Welker
Fulbright	McMahon	Young

So the amendment of Mr. DOUGLAS was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GEORGE. Mr. President, earlier I sent an amendment to the desk, but, in view of the vote on the Douglas amendment, it is entirely unnecessary to offer it, because the amendment would simply have prevented the Board from delegating its power to grant permissive exemptions. It is therefore unnecessary to offer the amendment, and I do not offer it.

I desire to take this occasion to say, however, that in view of the amendment which has now been agreed to, my candid judgment is that the act becomes incapable of administration. Time will demonstrate the truthfulness of this statement as shown by the experience under the World War II Act when it was found that discretionary exemptions were necessary to administer the act in a way to properly carry out its functions. I have no further amendment to offer.

Mr. CASE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Dakota?

Mr. GEORGE. I yield the floor. But there is no pending amendment.

Mr. CASE. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Dakota for a question?

Mr. GEORGE. I yield.

Mr. CASE. In the event the bill goes to conference, and the provision which has just been stricken should be proposed to be restored by the conferees from the other body, would the Senator then be in a position to propose at that

time the amendment which he now is not presenting, but which would prevent the Board from delegating its power?

Mr. GEORGE. I am not sure, but I think it could not be done. I may say, however, that I always abide by the votes taken by the Senate. If the Senate does not want renegotiation of contracts, I would be bound to uphold its wishes. But if the Senator from South Dakota, who has shown unusual alertness in comprehending and understanding the entire process of renegotiation, desires that the amendment be offered, so that if, in conference, there should be a restoration of the provision just stricken out, I will raise no objection. I am sure that there is no objection on the part of any Senator to saying that the permissive authority, which has now been stricken out of the act, should not be delegated if it should be restored.

Mr. CASE. Mr. President, if I may, I should like to offer the amendment which the Senator from Georgia referred to just recently.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. DOUGLAS. Mr. President, I move to reconsider the vote by which the amendment on pages 34 and 35 was agreed to.

The PRESIDING OFFICER. The Senator from South Dakota has offered an amendment, which will be stated.

The LEGISLATIVE CLERK. On page 37, line 22, after the word "rules", it is proposed to insert "and other than its power to grant permissive exemptions under section 106 (d)."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from South Dakota.

Mr. CASE. Mr. President, as some of the Senators now present were not in the Chamber when the amendment was discussed, if I may, I should like to speak very briefly on the amendment.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. CASE. Mr. President, this is an amendment which was drawn by the Senator from Georgia to make it clear that the Board might not delegate or redelegate any power to make permissive exemptions. At present the section covering permissive exemptions has been stricken from the bill, but if it should be restored either on reconsideration or as a result of conference with the House, it seems to me the Senate and the country would want the assurance that if the power to grant any kind of permissive exemption were granted to the Board, it should not be delegated by the Board to some clerk.

This point arose in the discussion on Monday, and it was pointed out that the Board had certain powers of delegation and re delegation of its duties, and of powers and duties which might be assigned to it under the powers of other acts. Certainly if it is to delegate any power, it should not delegate to any other board or to any subagency or to any clerk in a department the right to grant permissive exemptions. That is why I

feel the amendment should be incorporated in the bill, so that we will be sure that there can be no delegation of power to grant permissive exemptions.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from South Dakota [Mr. CASE].

The amendment was agreed to.

Mr. DOUGLAS. Mr. President, I move that the vote by which the amendment on pages 34 and 35 was agreed to be reconsidered.

Mr. GEORGE. Mr. President, I ask the Senate not to reconsider the vote, because I am willing to be bound by it. I merely want the country to know that there are some Members of this body who apparently do not want renegotiation of contracts. I know this amendment will bog down the enforcement of the law as it did in prior years. I hope very much that the Senate will have a vote on the Senator's motion and not on a motion to table.

Mr. FERGUSON. Mr. President, I move that the motion to reconsider be laid on the table.

Mr. McFARLAND. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. JOHNSON of Texas. I announce that the Senators from Connecticut [Mr. BENTON and Mr. McMAHON] are necessarily absent.

The Senator from New Mexico [Mr. CHAVEZ] is absent on public business.

The Senator from Iowa [Mr. GILLETTE] is absent by leave of the Senate.

The Senator from Tennessee [Mr. McKELLAR] is absent because of illness.

The Senator from Louisiana [Mr. ELLENDER], the Senator from Tennessee [Mr. KEFAUVER], and the Senator from Alabama [Mr. SPARKMAN] are absent on official business.

The Senator from Tennessee [Mr. KEFAUVER] is paired on this vote with the Senator from Louisiana [Mr. ELLENDER]. If present and voting, the Senator from Tennessee would vote "yea" and the Senator from Louisiana would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from Idaho [Mr. WELKER] is absent on official business.

The Senator from Illinois [Mr. DIRKSEN], who is absent on official business, is paired with the Senator from North Dakota [Mr. Young], who is absent by leave of the Senate on official business. If present and voting, the Senator from Illinois would vote "nay" and the Senator from North Dakota would vote "yea."

The Senator from Indiana [Mr. JENNER] is necessarily absent.

The Senator from California [Mr. NIXON] is absent because of illness.

The Senator from Michigan [Mr. VANDENBERG] is absent by leave of the Senate.

The yeas and nays resulted—yeas 41, nays 41, as follows:

YEAS—41

Aiken	Cordon	Green
Anderson	Douglas	Hendrickson
Brewster	Dworshak	Hennings
Bridges	Ferguson	Hill
Cain	Flanders	Humphrey
Clements	Fulbright	Hunt

Ives
Kem
Kilgore
Langer
Lehman
Lodge
Long
Magnuson

Monroney
Morse
Mundt
Murray
Neely
O'Connor
O'Mahoney
Pastore

Saltonstall
Schoeppel
Smathers
Thye
Tobey
Watkins
Wiley

NAYS—41

Bennett
Bricker
Butler, Md.
Butler, Nebr.
Byrd
Capehart
Carlson
Case
Chapman
Connally
Duff
Eastland
Ecton
Frear

George
Hayden
Hickenlooper
Hcey
Holland
Johnson, Colo.
Johnson, Tex.
Johnston, S. C.
Kerr
Knowland
McCarran
McCarthy
McClellan
McFarland

Malone
Martin
Maybank
Millikin
Robertson
Russell
Smith, Maine
Smith, N. J.
Smith, N. C.
Stennis
Taft
Wherry
Williams

NOT VOTING—14

Benton
Chavez
Dirksen
Ellender
Gillette

Jenner
Kefauver
McKellar
McMahon
Nixon

Sparkman
Vandenberg
Welker
Young

The PRESIDING OFFICER. On this vote the yeas are 41, and the nays are 41—a tie vote. The motion is rejected.

Mr. GEORGE. Mr. President, how much time is available on the motion which is now before the Senate?

The PRESIDING OFFICER. Fifteen minutes is allowed to each side.

Mr. DOUGLAS. Mr. President, I withdraw my motion to reconsider.

Mr. GEORGE. Mr. President, I object to the withdrawal of the motion at this stage.

The PRESIDING OFFICER. The Chair is advised that the motion can be withdrawn only by a majority vote.

Mr. GEORGE. I think that is true. It cannot be withdrawn by the proponent of the motion.

Mr. BREWSTER. Mr. President, inasmuch as there seems to be some doubt on the subject, I suggest that we proceed on the motion to reconsider.

Mr. GEORGE. I have risen to speak on that motion.

The PRESIDING OFFICER. That is the question before the Senate.

Mr. GEORGE. That is the pending motion.

Mr. President, the Senate has voted to strike from the bill the discretionary exemption power. Having stricken from the bill this power, the Senate should vote to strike also the mandatory exemptions in order to be at all consistent.

Mr. President, the moment that is done, farm products, lumber, and cattle are subject to renegotiation on contracts and subcontracts relating to these commodities. The moment that is done, iron ore will be subject to renegotiation from the moment it comes out of the ground. If Senators wish to destroy the Renegotiation Act, that is the choice they have.

Let me say to Senators from the South and from cotton-growing States that under the House bill as it stands today, a cotton gin with only 450 or 500 bales of cotton, or a warehouseman who stores only 500 bales of cotton, will become subject to renegotiation the moment the cotton goes into a mill and the Government made a contract with the mill. That is so because today cotton is worth,

with the seed, more than \$200 a bale, and 500 bales would bring a contract up to more than \$100,000, the amount provided in the House bill.

Under the World War II act, under which our country lived when we were fighting for our very existence, and when we were the arsenal for all mankind, the permissive and mandatory provisions were contained in the law. They had to be left in the law in order to make it administratively feasible. Under the previous act the Board did not have power to renegotiate in the case of any metal or ore until it had reached such a stage that it could be utilized in an industrial process. We must be consistent. We do not want the Board, which has arbitrary power, to say that a contract which is made by the Government with a citizen has yielded excessive profits, with practically nothing but the conscience of the Board to guide it. We do not want to say that the contract of expert engineer or scientist, who is brought to Washington as a consultant, will be subject to the act, though the Board knows that such a consultant could never earn \$100,000 during the course of the year. Nevertheless he would have to be queried. He would have to fill out reports. He would have to go to all sorts of trouble, and the Board would have to go to him. The whole process would bog down. I simply say that if Senators do not want any mandatory exemptions in the bill, such exemptions should not be written into it. I say: Do not do it for agricultural products; do not do it for wool; do not do it for cattle; do not do it for beef; do not do it for cotton; do not do it for wheat; do not do it for any other agricultural product; do not do it for a single ounce of ore or a single mineral which comes out of the ground, because there can be no consistency in saying to the Board, "We will prevent you from looking at certain contracts for renegotiation purposes, but we will not give you the power to exempt from renegotiation a contract which the Board knows can never result in excessive or unreasonable profits."

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. BREWSTER. The Senator cited the example of a man who comes here as a consultant. The Senator stated that his compensation could never exceed \$100,000 a year. He would be exempt under the provision still remaining, the \$500,000 exemption sponsored by the Senator from Georgia.

Mr. GEORGE. Certainly; but the Board would have to query him about his contract. The Board would have to ask him to show what renegotiable business he had done under contracts with A, B, C, and D, although the Board might know that he would not be subject to being renegotiated.

Mr. BREWSTER. He would not be subject to renegotiation unless this total were more than \$500,000.

Mr. GEORGE. How would the Board know it until he had been queried and until he had answered all the inquiries?

Mr. BREWSTER. The Board is forbidden to go into the question of profits

on any contracts totaling less than \$500,000.

Mr. GEORGE. How would the Board know that the total was less than \$500,000?

Mr. BREWSTER. It would know that on the basis of a simple return. The Board would not have to spend time examining contracts.

Mr. GEORGE. The Senator is mistaken.

Mr. BREWSTER. The Government knows how much it is paying the man.

Mr. GEORGE. He may be working for various individuals.

The distinguished Senator from Maine and the Senator from Michigan [Mr. FERGUSON] were wholly misled, and misinterpreted General Hirsch's testimony. General Hirsch objected to the delegation of authority by a board back to a procurement officer, and allowing the procurement officer himself to exempt the contract from renegotiation. That is what General Hirsch was talking about. That is all he was talking about.

We wrote into the bill a provision that there should be no delegation of power to a procurement officer, and there will be no delegation by the Board at all, under the amendment offered by the Senator from South Dakota [Mr. CASE].

It is not a question of whether or not a person is liable to renegotiation. It is a question of going through all the details of accounting work to show that no contract or subcontract which he had with the Government brought him within the limitation fixed under the terms of the bill.

Mr. ROBERTSON. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. ROBERTSON. I am in thorough accord with the viewpoint so forcefully expressed by the Senator from Georgia, that the adoption of the amendment would make the proposed act unworkable.

Some of my colleagues seem to be fearful that the Board will not properly discharge its duties from the standpoint of protection of the Government and the taxpayers. When we dispose of this issue, which I hope will be disposed of by reconsidering the vote by which the amendment was adopted, and then eliminating the amendment, an amendment will be offered by the Senator from Minnesota [Mr. HUMPHREY] to provide for the kind of independent board which the House contemplated, a Board composed of the best type of men, not less than three of whom shall be from civilian life. That is the key to the situation.

No Army officer could draw the \$12,500 or \$15,000, whichever it may be, while he was drawing his military pay. The advice I get is that he would probably be required to resign from the Army, the Navy, or the Air Force. Then where would the choice lie? It would lie with those willing to resign from the service. The best type of officer, who wished to remain in the military service, could not accept the appointment.

Mr. GEORGE. The Senator is entirely correct. If this amendment prevails, the Board will not have the power to exempt from renegotiation any contract

affecting the production or distribution of the hydrogen bomb.

Mr. SALTONSTALL. Mr. President, will the Senator yield for a question?

Mr. GEORGE. I yield.

Mr. SALTONSTALL. Is it the distinguished Senator's position that if the permissive exemption provision is stricken out, then all mandatory exemptions should also be eliminated, because there are so many types of contracts that should properly be exempt that they cannot be set forth in the act; and therefore, if they cannot be set forth in the act and cannot be eliminated from the recapture clause, then nothing should be exempted? Is that the Senator's position?

Mr. GEORGE. I simply say that there is absolutely no consistency in not allowing the Board to exempt a contract with respect to which, in its judgment and opinion, there could not possibly be excessive profits, and then writing into the bill a group of mandatory exemptions.

Mr. SALTONSTALL. There are a large number of such types of contracts.

Mr. GEORGE. Certainly there are. In order to protect the agricultural and stock-raising interests, as well as the mining interests, we had to amend the House bill and go back to the World War II Act. Who could say that the conferees on the part of the Senate could contend for that amendment for one moment, in the face of the vote taken by the Senate to strike the provision giving the Board itself power to make an exemption in the case of a contract which clearly ought to be exempted?

Mr. BREWSTER and Mr. FERGUSON addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Georgia yield, and if so, to whom?

Mr. GEORGE. Mr. President, has my time expired?

The PRESIDING OFFICER. The Senator has three minutes.

Mr. GEORGE. I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois [Mr. DOUGLAS] has control over 15 minutes of time.

Mr. DOUGLAS. Mr. President, I yield 5 minutes to the Senator from Maine [Mr. BREWSTER].

Mr. BREWSTER. Mr. President, it is quite clear why the Senator from Georgia should desire that the mandatory exemptions should be the issue at this time; but a mandatory exemption is an absolute prohibition on abuse. There might be arguments as to whether some items should be exempted, but that question is not here raised. The whole question is about the permissive exemptions. Mandatory exemptions are clearly laid down in the bill, covering agriculture, mining, and certain products of the soil. That provision remains firm. The very action of the Senate in striking out permissive exemptions is clearly designed to prevent very grave and gross abuses of administrative discretion such as those which have been revealed in such telling, repeated, and increasing force in recent weeks and months.

If the question of the mandatory exemptions is presented, if the Senator from Georgia feels that that question

should be presented, the Senate can vote upon it. Personally, the Senator from Maine has no doubt as to the result, whatever might be the arguments on one side or the other.

However, on the question of permissive exemptions, the issue is clear. If there is not \$500,000 in total Government payments to any individual or concern, the contract does not come within the purview of the act in any way. It is not a question of what a man made or did not make. It is only a question of what the Government finds is due the corporation or individual; and if the totals for the individual or corporation are less than \$500,000, under the terms of the bill that is the end of the matter. There is no investigation, no discussion, no renegotiation, no action of any character, and no burden on the board. So the illustration of the petty amounts—they are not really petty—up to \$500,000 is entirely outside the scope of the issue.

With respect to permissive exemptions, the dangers of abuse have been repeatedly pointed out. There is no question in the mind of the Senator from Maine as to the caliber of General Hirsch, who had more experience in this field than any other man, and whose administration was characterized by everyone concerned as beyond reproach. Based on his judgment, his wisdom, his experience, he urged that the permissive exemption should no longer remain within the act. It was on that basis that so many Members concerned with the discussion before, and with the recent study, were persuaded this possibility of abuse should be wiped out.

Mr. DOUGLAS. Mr. President, I yield 5 minutes to the Senator from Michigan [Mr. FERGUSON].

Mr. FERGUSON. Mr. President, the Senator from Georgia has indicated that the Senator from Michigan and the Senator from Maine [Mr. BREWSTER] are mistaken as to what General Hirsch said in regard to the elimination of the exemption. The Senator from Michigan knows that he was not misled, because the words of General Hirsch were:

I have been thinking it over, and the one real recommendation that I would like to make is the elimination of exemptions. That is the one recommendation that I would make.

I asked him this question:

That is any exemption?

General Hirsch said:

Yes.

In other words, he was for the elimination of exemptions.

Now it has been indicated here on the floor that the proposed legislation will not work if exemptions are taken out of the bill.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. FERGUSON. I yield.

Mr. MILLIKIN. Was it not General Hirsch's idea that the mandatory exemptions should be eliminated?

Mr. FERGUSON. He wanted them all eliminated.

Mr. MILLIKIN. If he wanted them all eliminated, that would mean deleting the mandatory exemptions.

Mr. BREWSTER. Mr. President, will the Senator from Michigan yield?

Mr. FERGUSON. I yield.

Mr. BREWSTER. That is quite correct, but that is not the proposal before the Senate.

Mr. MILLIKIN. It is the proposal before the Senate if we are accepting General Hirsch as an authority.

Mr. BREWSTER. The impracticability of eliminating the mandatory exemptions is due to the eloquence of the Senator from Colorado and his associates. So everybody knows it is useless to propose the elimination of the mandatory exemptions.

Mr. MILLIKIN. Mr. President, will the Senator from Michigan yield?

Mr. FERGUSON. I yield.

Mr. MILLIKIN. The Senator quotes an authority for guidance in a limited field, which would eliminate all mandatory exemptions, which certainly limits the general's authority under the predominant view of the Senate.

Mr. FERGUSON. Mr. President, the Senator from Michigan was not mistaken as to what General Hirsch meant. The Senator from Michigan is not of the opinion that this bill will be in any way weakened by such a proposal. It will in fact be strengthened. Let there be no doubt that I favor renegotiation, and that the principle of renegotiation is strengthened by deleting exemptions.

Questions may be raised on the floor with respect to those who make the A-bomb. It has been said on the floor that those who have A-bomb and nitrogen bomb contracts have them on the basis of cost plus a dollar. Those contracts would not be renegotiated under any circumstances.

The bill contains an exemption with respect to security. How can the examination of a board into the profits under a contract affect security? I suppose all members of the Board and employees are going to be cleared for security. If we permit the use of that kind of a security shield as a basis for exemption we would not have any contracts renegotiated, because the services would say that all the contracts involved security and were not open to scrutiny.

I wish to present to the Senate the fact that there is a great distinction between saying to the Board "You cannot grant exemptions" and giving the Board discretion in determining the amount of profit. When the Board is given the power to grant exemption it can grant an exemption without going into the matter of profit. The Board can grant exemption without even looking into the facts. But when we say to the Board that they can determine the amount of profit we assume that they are going to look into all the facts. After they secure the facts it is quite true they can play favoritism by allowing one contractor 1 percent more than another contractor. That is true. But there is a great difference between saying that they can do it after the record has been made, which record would be capable of being scrutinized by the Congress, and to say that they can arbitrarily, without any cause whatever, make the contract exempt from renegotiation, and that there

will be no determination on the basis of the profits.

Mr. CASE. Mr. President, will the Senator yield for a question?

Mr. FERGUSON. I yield.

Mr. CASE. Does the Senator feel that if the Board knew that in a certain case it would come up with the answer of zero in the matter of profits it should proceed with renegotiation?

Mr. FERGUSON. If the Board knew that the determination would be zero, it should give the contractor a clear bill of health and consider that the contract had been renegotiated. Bear in mind that what we are renegotiating on is profits. I do not find anything in the bill which provides that the Board should go into all the figures. On a general review they can tell from the income tax and the balancing of the books how much each company is making on its contracts, and can tell whether or not an excessive profit has been made.

I wish to call to the attention of the Senate how this matter was handled in the past. The War Investigating Committee spent many hours, after the war was over, in trying to provide a guide should there be a need for any future renegotiation legislation. What did the committee do after weeks of examination of contracts? They made the following recommendation:

The committee believes that any future Renegotiation Act be improved in the following specific ways:

(a) By bringing within its operation all contractors with an annual war business exceeding \$100,000.

(b) Including war contracts of all Government agencies.

(c) By eliminating all mandatory and permissive exemptions so that all Government contractors with more than an annual business of \$100,000 are renegotiated.

The PRESIDING OFFICER (Mr. HOEY in the chair). The time of the Senator from Michigan has expired.

Mr. DOUGLAS. Mr. President, I think it is well that we clarify the issues somewhat. The distinguished senior Senator from Georgia [Mr. GEORGE] stated that it was obvious that some Members of the Senate did not desire a renegotiation act. While the Senator from Georgia did not specify who the individuals were, it is quite apparent he thought this group consisted of those of us who want to eliminate the permissive exemptions from the act.

I am sure that upon reflection the Senator from Georgia will come to exactly the opposite conclusion. It is because we believe in a renegotiation act that we do not believe an administrative body should be given the power when a contract is made, to exempt that contract and the contractor from renegotiation. That is the issue.

It is because we believe in the principle of renegotiation that we say that individual contractors should not, by decision of an administrative body, be free from renegotiation—for these are administrative bodies which can proceed in secret, be exposed to hidden influences, hand down decisions which they do not have to justify, and take away from the Treasury and the people of the United States billions of dollars. It is

precisely that potential form of vice we want to stop.

So those of us who propose the amendment, far from being the foes of renegotiation, as has been implied, are the friends and advocates of renegotiation.

Mr. President, as the Senator from Maine [Mr. BREWSTER] has pointed out, the question of the mandatory exemptions is not involved in this amendment. The mandatory exemptions are covered from page 28 to the top of page 34. We are not now proposing an amendment to strike out the mandatory exemptions. But we do say that the permissive exemptions on pages 34-35 are extremely dangerous, because we know that in the past they have been abused, and because the man who was in charge of this matter in the Second World War opposed them. An eminent committee of the Eightieth Congress, consisting of the Senator from Maine [Mr. BREWSTER], the junior Senator from Michigan [Mr. FERGUSON], the junior Senator from Wisconsin [Mr. MCCARTHY], the senior Senator from Delaware [Mr. WILLIAMS], the junior Senator from Nevada [Mr. MALONE], the junior Senator from Washington [Mr. CANN], and the senior Senator from Maryland [Mr. O'CONNOR] all joined in opposing them. We should not expose the Board to such temptations. I think they made a good report.

Mr. President, this is a matter of extreme importance, and I hope very much that we shall not reconsider the vote by which my amendment was adopted.

The PRESIDING OFFICER. The Senator from Georgia has 3 minutes remaining.

Mr. GEORGE. Mr. President, I do not care to belabor the issue. The very report which was submitted by the distinguished Senator from Michigan [Mr. FERGUSON] and the distinguished Senator from Maine [Mr. BREWSTER] recommended the elimination of all exemptions, both mandatory and permissive.

Mr. President, we now find ourselves in this peculiar situation, and I am going to deal fairly with the Senate, as I have always tried to do: The House of Representatives did not provide sufficient relief for agricultural products; for cattle; for wool; it did not provide sufficient relief for minerals, and so on. The Senate had to do it. Can the conferees on the part of the Senate go to the conferees on the part of the House and say to them, "Gentlemen, you were wrong in not allowing the mandatory exemptions which we have written in the bill to fully protect American agriculture, American livestock growers, American mining interests"? Can we do that, Mr. President, in the face of a vote by the Senate against even permissive exemptions?

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. GEORGE. Mr. President, someone may do that, but it would take a person with an elastic conscience.

I can assure the distinguished Senator from Maine that the conferees on the Finance Committee would not expose themselves to that sort of situation.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. GEORGE. No, Mr. President; I do not yield. I have but 3 minutes.

As I have said, it is not a question of what is involved in this amendment, but it is a question of what is involved in a conference report.

Now I wish to make this statement to the Senate, and I do so in all kindness: It is passing strange to me that we are called upon to rewrite a bill of this character on the floor of the Senate, when our committee has given honest and conscientious and hard work to the responsibilities placed upon it by the Senate; and I mean precisely what I am saying. If Senators do not wish to support the committee, but wish to rewrite the bill in order to satisfy the wishes of particular groups, all good and well. Then I shall be under no obligation to support the committee's findings and deliberations. However, what Senators are doing by their vote is to place such a tremendous burden upon the Board as to bog down renegotiation.

The PRESIDING OFFICER. The time of the Senator from Georgia has expired.

Mr. DOUGLAS. Mr. President, let me inquire whether I have any time remaining.

The PRESIDING OFFICER. The Senator from Illinois has 2 minutes remaining.

Mr. DOUGLAS. I yield the remainder of my time to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. LEHMAN. Mr. President, I listened with some amazement to the remarks of the distinguished Senator from Georgia, for whom I have the greatest regard, when he was critical of the fact that Members of the Senate had the effrontery to propose amendments which would change the bill prepared by the committee. It seems to me that if his thesis is correct, it would mean that no amendments should ever be offered from the floor or otherwise to a bill prepared by a committee. It would mean a complete surrender of the authority and duties and responsibilities of Members of the Senate, other than those who sit on a specific committee. So far as I am concerned, I would feel that under those circumstances, service in the Senate was well nigh useless. I would not want to acknowledge or agree to any thesis of that sort.

Let me say that when I speak on this subject, I do not speak in complete ignorance or from inexperience, for, by appointment of the President and the Secretary of War, in 1919, I served on the very first Board of Contract Adjustment after the First World War. We had the same problems. I saw the tremendous pressure which was brought on the Board by various interests, not in bad faith, but simply because they felt they should not be subject to the provisions of the act as it was then written. We shall have exactly the same situation if we allow permissive exemptions to be made by this Board.

The PRESIDING OFFICER. The Senator's time has expired. All time has expired.

The question now is on agreeing to the motion to reconsider the vote by which the amendment of the Senator from Illinois was agreed to.

Mr. GEORGE. Mr. President, on this question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOUGLAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Green	Maybank
Anderson	Hayden	Millikin
Bennett	Hendrickson	Monroney
Brewster	Hennings	Morse
Bricker	Hickenlooper	Mundt
Bridges	Hill	Murray
Butler, Md.	Hoey	Neely
Butler, Nebr.	Holland	O'Connor
Byrd	Humphrey	O'Mahoney
Cain	Ives	Pastore
Capehart	Johnson, Colo.	Robertson
Carlson	Johnson, Tex.	Russell
Case	Johnston, S. C.	Saltonstall
Chapman	Kem	Schoeppel
Clements	Kerr	Smathers
Connally	Kilgore	Smith, Maine
Cordon	Knowland	Smith, N. J.
Douglas	Langer	Smith, N. C.
Duff	Lehman	Stennis
Dworshak	Lodge	Taft
Eastland	Long	Thye
Ecton	McCarran	Tobey
Ellender	McCarthy	Watkins
Ferguson	McClellan	Wherry
Flanders	McFarland	Wiley
Fulbright	Magnuson	Williams
George	Malone	
	Martin	

The PRESIDING OFFICER. A quorum is present.

Mr. DOUGLAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOUGLAS. I should like to ask whether the Presiding Officer would be so kind as to state the issue before the Senate.

The PRESIDING OFFICER. The issue now to be passed upon by the Senate is whether it shall reconsider the vote by which the amendment offered by the Senator from Illinois was agreed to. The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. JOHNSON of Texas. I announce that the Senators from Connecticut [Mr. BENTON and Mr. McMAHON] are necessarily absent.

The Senator from New Mexico [Mr. CHAVEZ] is absent on public business.

The Senator from Iowa [Mr. GILLETTE] is absent by leave of the Senate.

The Senator from Wyoming [Mr. HUNT] is unavoidably detained on official business at one of the Government departments.

The Senator from Tennessee [Mr. KEFAUVER] and the Senator from Alabama [Mr. SPARKMAN] are absent on official business.

The Senator from Tennessee [Mr. McKELLAR] is absent because of illness.

If present and voting, the Senator from Tennessee [Mr. KEFAUVER] would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from Idaho [Mr. WELKER] is absent on official business.

The Senator from Illinois [Mr. DIRKSEN] who is absent on official business is

paired with the Senator from North Dakota [Mr. YOUNG] who is absent by leave of the Senate on official business. If present and voting, the Senator from Illinois would vote "yea" and the Senator from North Dakota would vote "nay."

The Senator from Indiana [Mr. JENNERS] is necessarily absent.

The Senator from California [Mr. NIXON] is absent because of illness.

The Senator from Michigan [Mr. VANDENBERG] is absent by leave of the Senate.

The result was announced—yeas 42, nays 40, as follows:

YEAS—42

Bennett	Frear	McFarland
Bricker	George	Malone
Butler, Md.	Hayden	Martin
Butler, Nebr.	Hickenlooper	Maybank
Byrd	Hoey	Millikin
Capehart	Holland	Robertson
Carlson	Johnson, Colo.	Russell
Case	Johnson, Tex.	Smith, Maine
Chapman	Johnston, S. C.	Smith, N. C.
Connally	Kerr	Smith, N. J.
Duff	Knowland	Stennis
Eastland	McCarran	Taft
Ecton	McCarthy	Wherry
Ellender	McClellan	Williams

NAYS—40

Aiken	Hennings	Murray
Anderson	Hill	Neely
Brewster	Humphrey	O'Connor
Bridges	Ives	O'Mahoney
Cain	Kem	Pastore
Clements	Kilgore	Saltonstall
Cordon	Langer	Schoeppel
Douglas	Lehman	Smathers
Dworshak	Lodge	Thye
Ferguson	Long	Tobey
Flanders	Magnuson	Watkins
Fulbright	Monroney	Wiley
Green	Morse	
Hendrickson	Mundt	

NOT VOTING—14

Benton	Jenner	Sparkman
Chavez	Kefauver	Vandenberg
Dirksen	McKellar	Welker
Gillette	McMahon	Young
Hunt	Nixon	

So the motion to reconsider was agreed to.

The VICE PRESIDENT. The question now is on agreeing to the amendment offered by the senior Senator from Illinois [Mr. DOUGLAS], the time for debate on which has been exhausted.

Mr. BREWSTER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. JOHNSON of Texas. I announce that the Senators from Connecticut [Mr. BENTON and Mr. McMAHON] are necessarily absent.

The Senator from New Mexico [Mr. CHAVEZ] is absent on public business.

The Senator from Iowa [Mr. GILLETTE] is absent by leave of the Senate.

The Senator from Wyoming [Mr. HUNT] is unavoidably detained on official business at one of the Government departments.

The Senator from Tennessee [Mr. McKELLAR] is absent because of illness.

The Senator from Alabama [Mr. SPARKMAN] is absent on official business.

Mr. SALTONSTALL. I announce that the Senator from Idaho [Mr. WELKER] is absent on official business.

The Senator from Illinois [Mr. DIRKSEN] who is absent on official business is paired with the Senator from North Dakota [Mr. YOUNG] who is absent by leave of the Senate on official business.

If present and voting, the Senator from Illinois would vote "nay," and the Senator from North Dakota would vote "yea."

The Senator from Indiana [Mr. JENNER] is necessarily absent.

The Senator from California [Mr. NIXON] is absent because of illness.

The Senator from Michigan [Mr. VANDENBERG] is absent by leave of the Senate.

The result was announced—yeas 41, nays 42, as follows:

YEAS—41

Aiken	Hennings	Mundt
Anderson	Hill	Murray
Brewster	Humphrey	Neely
Bridges	Ives	O'Connor
Cain	Kefauver	O'Mahoney
Clements	Kem	Pastore
Cordon	Kilgore	Saltonstall
Douglas	Langer	Schoeppel
Dworschak	Lehman	Snathers
Ferguson	Lodge	Thye
Flanders	Long	Tobey
Fulbright	Magnuson	Watkins
Green	Monroney	Wiley
Hendrickson	Morse	

NAYS—42

Bennett	Frear	McFarland
Bricker	George	Malone
Butler, Md.	Hayden	Martin
Butler, Nebr.	Hickenlooper	Maybank
Byrd	Hoey	Millikin
Capehart	Holland	Robertson
Carlson	Johnson, Colo.	Russell
Case	Johnson, Tex.	Smith, Maine
Chapman	Johnston, S. C.	Smith, N. J.
Connally	Kerr	Smith, N. C.
Duff	Knowland	Stennis
Eastland	McCarran	Taft
Eaton	McCarthy	Wherry
Ellender	McClellan	Williams

NOT VOTING—13

Benton	Jenner	Vandenberg
Chavez	McKellar	Welker
Dirksen	McMahon	Young
Gillette	Nixon	
Hunt	Sparkman	

So the amendment of Mr. DOUGLAS was rejected.

Mr. DOUGLAS. Mr. President, on page 35, line 16, I offer an amendment to strike out the words "both individually and" and to substitute in lieu thereof the word "only."

The effect of the proposed amendment would be to eliminate the power of the Board to grant exemptions from renegotiation to individual firms, and permit it to grant exemptions only to a general class or type of firms. The Board would be given the power to exempt individual industries or particular types of companies, but not to exempt individual firms within an industry.

Mr. President, I believe the Senate made a very bad decision a moment ago. The adoption of the amendment I now propose would help make it not quite so bad as it otherwise would be.

Mr. GEORGE. Mr. President, I make a parliamentary inquiry as to whether or not the amendment proposed by the Senator from Illinois is subject to a point of order. My understanding is that the Senator's original amendment was to strike out language in the bill which included the language which the Senator from Illinois now identifies as a single phrase or group of words.

The VICE PRESIDENT. The Chair feels that the language which the Senate refused to strike out is subject to amendment. Therefore the amendment which is now being offered by the Senator from Illinois is not subject to a point of order.

Mr. GEORGE. Mr. President, I hope very much that the Senate will not agree to the amendment which is now being proposed by the Senator from Illinois, although I do not know the precise reasons for the amendment. I do not know whether it could possibly possess any real merit. I am not sufficiently familiar with what the Senator has in mind. Would the Senator mind stating his amendment again?

Mr. DOUGLAS. The amendment is to strike out the words "both individually and" and to substitute therefor the word "only," so as to make lines 16 and 17 read:

The Board may so exempt contracts and subcontracts only by general classes or types.

Under the amendment the Board could grant an exemption to an industry, but could not grant it to individual firms, or favor them in advance. It would do away with individual favoritism within an industry, although the Board would still be subjected to pressure by an industry.

Mr. CASE. Mr. President, will the Senator yield for a question?

Mr. GEORGE. I yield.

Mr. CASE. Mr. President, it appears to me that the amendment offered by the Senator from Illinois has a meritorious purpose. Its purpose is to prevent discrimination and favoritism. On the other hand, I wonder if it would not also prevent the Board from asserting its power of renegotiation if it found a flagrant case in a general class. For example, with respect to class 4, if it came to the attention of the Board that certain contractors had some secret projects, in which the Board felt there were some flagrant examples of excessive profits, how could the Board recapture the renegotiation right, if the proposed amendment were agreed to?

Mr. DOUGLAS. It was not the purpose of the Senator from Illinois to permit any permissive exemptions. It was the purpose of the Senator from Illinois to eliminate all permissive exemptions, in order to remove from the administrative Board the temptation to make rulings which would favor particular individuals or classes. However, after some debate and a number of roll calls, such a general amendment was defeated. As the situation now stands, the Board has the power not only to exempt general classes, but individual firms as well. What I am trying to do is to cut down the range of abuse. I would not give the Board any more powers than it now possesses under the bill. I would give it fewer powers, so that it could classify industries or firms according to particular circumstances which may arise, and make a general rule for such firms, but the Board would not be permitted to pick out company A and favor it over company B, or give one company a favor which it did not give to another company in the same category.

Mr. FERGUSON. If the Senator's amendment were agreed to, would it not restore competition? I ask that because at the present time if one man can get an exemption, and another man who is selling the same product cannot get an exemption, there is not fair trade or

fair practice. In other words, the amendment would require the Board to treat all firms alike. In the case of the Government's purchase of wheat, one man could submit a bid to the Government and know that while his contract could be renegotiated, the contract of someone else dealing in wheat would be exempted from renegotiation.

Mr. DOUGLAS. The Senator is correct.

Mr. FERGUSON. The amendment would restore at least the individual enterprise system in such contracts as nearly as it is possible to do so.

Mr. DOUGLAS. And reduce as much as possible the danger of governmental fix.

Mr. FERGUSON. I agree with the Senator.

Mr. AIKEN. In the mind of the Senator from Illinois, would his amendment eliminate any possibility of political favoritism?

Mr. DOUGLAS. It would reduce the possibility of political favoritism.

Mr. AIKEN. It would not eliminate it, but it would reduce it?

Mr. DOUGLAS. It would reduce it.

Mr. FULBRIGHT. Mr. President, I should like to ask the Senator from Illinois if a distinction between classes based upon whether a contract is executed or not executed is not significant. It seems to me that if the Board were given the right to exempt contracts after they have been executed, and a person executing them did not know whether they would be exempt, there would be much less chance of abuse than if an exemption were given in advance. I wonder if we could not achieve the purpose by saying that the Board would have discretion if a contract had been executed under the belief that it would be renegotiated, but that if it found nothing substantial was involved, it could refuse to go forward with renegotiation. Is that not a valid distinction?

Mr. DOUGLAS. I think it is. The very process of renegotiation itself gives the Board the power to make a preliminary audit. If the figures do not seem to justify renegotiation, the Board is not compelled to renegotiate. What has been done now is to give the Board the power in advance, before production, before any costs have been determined, to exempt any or all contractors. Now that we have permitted that abuse, I think we should limit it.

Mr. CASE. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. CASE. There is no question that the Senator from Illinois has a laudable purpose in presenting his amendment. It is to prevent favoritism. However, anyone who has studied the problem of renegotiation will find that what it would do would be to defeat what renegotiation permits.

I have before me a copy of the hearings before the House Committee on Ways and Means at the time the Renegotiation Act was amended in 1943. In illustration of what was brought out before the committee, and which I believe to be apt now, Colonel Browning, who did a great deal of the renegotiation in

its early stages, brought to our attention the fact that in many instances people who were engaged in making the same product operated with different facilities, different capital structures, and different tooling and equipment. The result in many cases was that although two companies were producing the same product, one company would make more money than the other company. Renegotiation made it possible for the Government to get the production it needed, without the necessity of going to some companies which did not have as efficient tools as others.

For example, Colonel Browning showed us that a contract had been made with a certain company for the manufacture of machine guns at a price of \$500 per gun. Another firm was receiving only \$400. Yet the company with the \$400 price on machine guns made a profit of \$24,000,000 on a \$51,000,000 contract. Renegotiation made it possible to give the company which was making machine guns at \$400 a larger percentage of profit in recognition of its enterprise, and yet to recapture some of that profit for the Government. As a matter of fact, when we asked the result, we were informed that the price was renegotiated down to \$280 per gun for one firm, and yet it made a profit of 20 percent. Another firm was reduced to \$330 per gun, and yet it made a profit of 13½ percent.

If it were required that machine guns as a class be altogether exempted, we could not reach a situation such as I have described. We would freeze, for the company with the tools which permitted it to make an exorbitant profit of \$24,000,000 from a \$51,000,000 contract, the right to obtain such a profit, without making it possible for the Board to establish a differential by taking into consideration the experience or the plant and equipment of the various companies. It may be a discretionary feature, but it is something that has to do with the process of renegotiation.

Mr. FERGUSON. Mr. President, will the Senator from Georgia yield so that I may ask the Senator from South Dakota a question?

Mr. GEORGE. I yield.

Mr. FERGUSON. Does not the Senator demonstrate the proposition that exemption should be by classes rather than by individuals?

Mr. CASE. The Senator—

Mr. FERGUSON. Just a moment, if I may finish the question. Does the Senator demonstrate that it is necessary that there be renegotiation to determine whether or not there are excessive profits in a given case? Both contracts would have to be renegotiated to get the relative facts. Why should the Board, at the time the contract was entered into or prior thereto, have the right to exempt one manufacturer, and not another, without knowing all of the facts? Is not that the situation at which we are aiming?

Mr. CASE. The broad power of granting exemptions which the Secretary or the head of a procurement agency had under the old act is circumscribed by the five specific areas provided in the

permissive exemption provision. While I do not like the idea of treating one firm differently from another, we are dealing with the very difficult problem of trying to encourage private enterprise as much as possible, and yet not make it possible for some firms to make excessive profits in connection with the defense effort. There must be some discretion.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield for a question.

Mr. BREWSTER. Does not the comment of the Senator from South Dakota show very clearly that not only should we not exempt machine-gun manufacturers from negotiation, but that we could not know until after the fact whether or not either of the concerns was going to make excessive profits, since one firm might improve its efficiency?

Mr. GEORGE. Mr. President, I should like to make a statement. There is some misapprehension on the part of Senators. A number of Senators seem to have the impression that a person may go to the Board and get an exemption for himself, or for a contract which he has not made. That is not true at all. He cannot do so until after his contract is negotiated. It must be in existence. Under the permissive exemption provision of the bill the Board may say, "We know that there are no excess profits involved in this contract, and we will exempt it." It may do so by classes or types or by individual contracts. I rather think that striking out the words "both individually and", as proposed by the amendment of the Senator from Illinois, would be harmful and would work very great hardship upon many individuals. But if it is understood that I may take this amendment to conference for the purpose of giving study to it and understanding its real effect, I am willing to take the amendment to conference.

Mr. DOUGLAS. Mr. President, as an untutored Member of this body, I have often wondered what practical significance to attach to the phrase, "I will take it to conference." I have sometimes thought that this phrase means, "I will take the baby, but I will lay it on someone else's doorstep, and I will not take care of the baby after I have laid it there."

If this type of foundling is to be turned loose and subjected to the devices of the conference committee, I should much prefer to have the amendment voted up or down than to give it such ambiguous treatment.

Mr. GEORGE. Mr. President, very frankly, I do not quite see the effect of the Senator's amendment. In fact, I doubt that it is a wise amendment. However, I am willing to give study to it and determine, in conference, whether or not the amendment is meritorious and not harmful to the general purposes of the proposed act. If I were to be called upon to vote upon it at this time I should vote against it and ask the Senate to reject it. I think I am fair in saying to the Senator from Illinois that I will take

his amendment to conference and give it careful consideration. If I can see any merit in it, I shall be very glad to support it.

Mr. DOUGLAS. With the assurance from the Senator from Georgia that he will not prematurely abandon the child, I am very glad to accept his offer.

Mr. GEORGE. I will not prematurely abandon the amendment without careful consideration, but I disclaim any responsibility for the parentage of the child. [Laughter.] I want the Senator from Illinois to have that signal honor.

Mr. DOUGLAS. I am very happy to claim it.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Illinois [Mr. DOUGLAS].

Mr. FERGUSON. Mr. President, will the Senator from Georgia yield for a question?

Mr. GEORGE. I yield. I said I would take the amendment to conference.

Mr. FERGUSON. I should like to clear up this question. Did I correctly understand the Senator to say it was his opinion that the Board could not have inserted in a contract one of these exemptions, at the time of making the contract?

Mr. GEORGE. No. I said that the contract must be executed before there is any final determination that the contract is not renegotiable.

Mr. FERGUSON. In other words, the contract must be a contract that can be renegotiated, and then the Board rules as to whether or not it will be exempt from renegotiation.

Mr. GEORGE. That is my understanding.

Mr. FERGUSON. I wonder whether the Senator could point out for the RECORD the paragraph or the section which so provides. I inquired from the Board this morning, and did not receive an answer on this question.

Mr. GEORGE. I do not understand how there could be renegotiation unless there had first been negotiation. Renegotiate means simply to negotiate again. That is the literal meaning of the word "renegotiate." Therefore, there must be a contract, and that contract must be negotiated, although the Board might permit a provision to go into a given contract that it would not be subject to renegotiation, if it were clear that there could be no excessive profits. However, I do not think that is the practice.

Mr. FERGUSON. Mr. President, will the Senator yield for a further question?

Mr. GEORGE. I yield.

Mr. FERGUSON. As I understand, the Senator is of the opinion that if this provision is carried out, as indicated by the language, it means that the contracting officer makes a contract, and then the Board, after the contract is made, determines whether or not the particular contract is subject to renegotiation.

Mr. GEORGE. I think that is correct as to individual contracts. That is

my candid statement as to how it should be and is interpreted.

Mr. FERGUSON. Mr. President, will the Senator yield for one further question?

Mr. GEORGE. I yield.

Mr. FERGUSON. One of the arguments used for the exemption is that the contracting officer is able to get better prices by virtue of being able to say, "This contract is not going to be renegotiated."

Mr. GEORGE. I did not use that language.

Mr. FERGUSON. I understand that.

Mr. GEORGE. I do not know where that story came from.

Mr. FERGUSON. That came in the testimony before the War Investigating Committee; that was one of the justifications for permissive exemptions.

Mr. GEORGE. Let me call the Senator's attention to the fact that we have completely stripped the procurement officer of any authority to exempt any party to any contract. He does not have that authority under the bill. He cannot renegotiate. The procurement officer is out of the picture. Under the World War II act it developed that by delegating the authority the procurement officer could give an exemption. Of course, that power might be subject to abuse; there is no doubt about it. But under the bill neither a procurement officer nor any agency which has supervision over procurement can have anything to do with the exemption of contracts from renegotiation.

Mr. FERGUSON. Mr. President, will the Senator yield for another question?

Mr. GEORGE. Yes.

Mr. FERGUSON. I am inclined to the opinion that the Senator has a point which is valuable. If these contracts cannot be exempted at the time they are made, but must be exempted later, that would mean that the Board would have to get some facts at least to determine whether or not a contract should be exempted, and there may not be a full renegotiation.

Mr. GEORGE. That is correct.

Mr. FERGUSON. But even though only a partial renegotiation it could still be of great value.

Mr. GEORGE. The Senator is entirely correct. Since we were at great pains to exclude from the renegotiation process the officer who does the procuring for the Government, and took him out of the picture, since we said that there can be no delegation of this authority, it makes quite a difference.

Mr. FERGUSON. I quite agree with the Senator from Georgia.

Mr. GEORGE. Whatever may have been the construction given in the past to a prior act, now it would seem to me to be undoubtedly true that before the Board could say to an individual "Your contract need not be renegotiated" it must have looked at some of the facts, it must have something before it to justify it.

Mr. FERGUSON. I think that is true.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. BREWSTER. Would the Senator agree that in presenting the matter to the conference, as he expects to do, that there is very great advantage, both from the standpoint of the administrative burden and of the danger of abuse, if they are able to proceed by classes instead of by individual cases?

Mr. GEORGE. I would be very glad to present the matter fairly. I would be very glad to give it careful consideration.

Mr. BREWSTER. There may be other things to outweigh it, but I thought perhaps the Senator would agree that if it could be handled in this way both the administrative burden would be lightened and the danger of abuse lessened.

Mr. GEORGE. We will certainly give it full consideration and undertake to present it fairly. I have no objection to the amendment.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. GEORGE. I yield.

Mr. FULBRIGHT. I was apparently under a misapprehension, but I should like the Senator to make it clear as to why exemption cannot be made prior to the execution of the contract, without any knowledge of the contract itself. The Senator said that is not the case.

Mr. GEORGE. That is not the case, because under the bill only the Board has the power to exempt. It cannot delegate that power to anyone. It does not make the contract. It is not a party to any contract. It is not a procurement agency. So, if it has any knowledge of the situation at all, it must have after the contract is executed and it has some facts upon which it can act intelligently.

Mr. FULBRIGHT. I did not realize that. I thought that under the general provision at the top of page 35, lines 16 and 17, the Board could make a general exemption for classes which would apply in the future. It looks that way to me.

Mr. GEORGE. That might be true.

Mr. FULBRIGHT. That is the only matter that bothered me.

Mr. GEORGE. That may have been true as the House wrote the bill, but the Senator must recollect that we have amended the House bill in certain important particulars. We have said that the Board itself cannot delegate the power to exempt a contract with anybody; that the Board must retain that power. That, of course, makes this measure different from any act we have heretofore passed.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GEORGE. I have said, Mr. President, that I would carry the amendment to conference for the purpose of carefully studying it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois [Mr. DOUGLAS], on page 35, to strike out in lines 16 and 17 the words "both individually and" and to insert the word "only."

The amendment was agreed to.

Mr. KEFAUVER. Mr. President, I wish to offer an amendment to the same paragraph.

The PRESIDING OFFICER. The paragraph in lines 16 and 17 on page 35?

Mr. KEFAUVER. Yes. The amendment I offer is as follows:

On page 35, at the end of line 17, to strike out the period and insert a semicolon and the following: "Provided, however, That the Board may in exceptional or aggravated cases require renegotiation of particular contracts after execution even though contracts of that class may have been previously exempted."

This language follows the thought expressed by the Senator from South Dakota [Mr. CASE] and I think by some other Members of the Senate, that if a particularly aggravated or exceptional case involving inordinate profits appears to have arisen after the execution of the contract within the limitation that it is an exceptional or aggravated case, the Board should nevertheless have the power to renegotiate that contract even though the particular class of contracts may have been exempted in the beginning.

I offer the amendment for the consideration of the Senate.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. CAPEHART. What does the Senator mean by an aggravated case or an exceptional case?

Mr. KEFAUVER. I will state for legislative history that I mean a case where a very excessive profit has been made or where it developed later that the material which went into the performance of the contract cost a great deal less than was anticipated, or some other situation arose because of which the contractor should not in good conscience accept or want the Government to pay such a tremendous profit on the particular contract. When I use the words "exceptional" or "aggravated," that is what I have in mind.

Mr. CAPEHART. Does the Senator think others will understand what he means by the words "aggravated" and "exceptional"?

Mr. KEFAUVER. I assume that in conference the conferees can work out proper language if my language is not clear.

Mr. GEORGE. Mr. President, I may say to the Senator from Tennessee that his is exactly the negative of the amendment already offered by the Senator from Illinois, which provided that there must be no consideration of the individual contract. That provision of the bill has been stricken out. The Board can only act with respect to classes. Now this proposed amendment completely contradicts the amendment just agreed to.

It also seems to me, Mr. President, that this amendment should be subject to a point of order because it is part of the same line that has already been amended.

Mr. KEFAUVER. Mr. President, I do not think the amendment negatives the class amendment which has just been agreed to and is to go to conference, except in cases which are exceptional or aggravated. In such cases my amendment, if adopted, would, of course, negate the class-exemption amendment.

However, as the Senator from South Dakota [Mr. CASE] said, in certain types of cases the board might wish to exempt all contracts of a certain type; and yet certainly it would not be in the public interest or in the interest of the Government, nor would it be proper, to have the Government be unable to renegotiate a particular contract, after having exempted all contracts of the particular class, when it was found that for some particular reason the contractor in the particular case would make an inordinate profit.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. TAFT. I wonder whether this matter should be handled in conference. I understand the Senator's point, and it is worth considering, of course.

The Senator from South Dakota referred to secrecy cases. The Senator wishes to exempt, he says, all contracts which would involve war secrets. Yet, as the Senator pointed out, there might be a case in which it would be desirable to renegotiate a particular contract.

I wonder whether we should not leave the working out of this particular problem to the conferees. In other words, if the House of Representatives wished to accept the amendment, it would then be able to work out the matter in conference.

In regard to this particular provision, I simply ask the Senator whether he might better leave the matter to the conferees. The exemption might apply to a particular class; and yet, as has been stated, as to certain cases, we might not want to have the exemption.

Mr. KEFAUVER. What the Senator from Ohio suggests might be a good procedure to follow. However, if this amendment is not adopted, this matter will not be in conference.

Mr. GEORGE. Mr. President, I can say to the Senator that it will be in conference, I think.

Mr. LEHMAN. Mr. President, will the Senator yield for a question?

Mr. KEFAUVER. I yield.

Mr. LEHMAN. Will the Senator please read his amendment again?

Mr. KEFAUVER. I shall be glad to do so. On page 35, in line 17, at the end of the line, strike out the period and insert a semicolon and the following:

Provided, however, That the Board in exceptional or aggravated cases may require renegotiation of particular contracts after execution, even though contracts of that general class may previously have been exempted.

Mr. LEHMAN. Mr. President, will the Senator yield for another question?

Mr. KEFAUVER. I yield.

Mr. LEHMAN. Is it not a fact that, as the distinguished chairman of the Finance Committee said a moment ago, this amendment would substantially negative the amendment which has just been adopted by the Senate, namely, the amendment proposed by the Senator from Illinois?

Mr. KEFAUVER. It would negative that amendment, except for the words "exceptional or aggravated." In other words, the general rule then would be

that, as the Senator from Ohio has said, secret contracts or contracts of a particular class could be exempted. However, after exempting such secret contracts generally, if after the execution of a particular secret contract it was found that in some way it worked an inordinate or excessively heavy hardship upon the Government, the Board still would have the right to ask for the renegotiation of the contract.

So, Mr. President, I think my amendment, if adopted, might help in such cases. No doubt certain general classes of contracts, such as those pertaining to secret work, should be exempted; but after exempting them, it might be found that a particular contract which worked a great hardship on the Government should be renegotiated.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. JOHNSON of Colorado. Who would determine whether the case was exceptional or aggravated? The Board would determine that, would it not?

Mr. KEFAUVER. Yes.

Mr. JOHNSON of Colorado. But the bill provides that the Board may exempt contracts and subcontracts, both individually and by classes and types. The bill uses, in that connection, the words "both individually and." That language provides authority for the Board to take into consideration whether the case is exceptional or aggravated. In other words, these are permissive exemptions; they are not mandatory.

Mr. KEFAUVER. In response to the question of the distinguished Senator from Colorado, I would say that if the Board in the beginning decided to exempt all secret contracts, the words "exceptional or aggravated," in view of the legislative history which would indicate that they related to profits which were inordinate or shocking or in very large amount in proportion to the size of the contract, would establish standards by which the Board could proceed.

Mr. JOHNSON of Colorado. The words "both individually and" are written into the bill as it was passed by the House of Representatives. Under that language that very thing could be done. I suppose that is why the House used the words "both individually and."

Mr. KEFAUVER. But my amendment includes the words "exceptional or aggravated."

Mr. JOHNSON of Colorado. Then I go back to my original question, namely, who would decide what would be an exceptional or an aggravated case? Certainly the Board would decide that, would it not?

Mr. KEFAUVER. Yes; the Board would decide that. However, the words "exceptional or aggravated" would give the Board a standard by which to proceed.

Mr. LEHMAN. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. LEHMAN. Is it not true that to all intents and purposes the Senator's amendment would destroy the purpose and effect of the language on page 35, in

lines 16 and 17, of the bill as it was passed by the House?

Mr. KEFAUVER. I disagree with the Senator. I may say that I spoke to the Senator from Illinois, and I believe he said he would prefer to have this part of the bill remain as it would read as modified by his amendment, but that he would prefer to have my amendment added rather than to have the bill enacted in the form in which it was before his amendment was adopted.

Let me inquire whether I correctly state the position of the Senator from Illinois?

Mr. DOUGLAS. I think that is substantially correct. To my surprise, my amendment was adopted.

Mr. KEFAUVER. However, I think my amendment improves the amendment of the Senator from Illinois because his amendment now requires the Board, when it wishes to make certain exemptions, to exempt all in that class. It is quite conceivable—and I think would ordinarily happen in connection with the execution of a great number of contracts of a particular class—that there might be one of that type of contract—let us say a secret contract—which it would be outrageous not to have renegotiated, and in that connection not to have some funds returned to the Government.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Tennessee [Mr. KEFAUVER].

The amendment was rejected.

Mr. AIKEN. Mr. President, I send to the desk an amendment which I offer and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 5, in line 1, it is proposed to strike out the words "if any of", and insert in lieu thereof the words "except to the extent that."

Mr. AIKEN. Mr. President, this amendment is a slight one to paragraph (d) on page 4, under the heading "Suspension of certain profit limitations."

At that point the bill now reads as follows:

(d) Suspension of certain profit limitations: Notwithstanding any agreement to the contrary, the profit-limitation provisions of the act of March 27, 1934 (48 Stat. 503, 505), as amended and supplemented, and of section 505 (b) of the Merchant Marine Act, 1936, as amended and supplemented (46 U. S. C. 1155 (b)), shall not apply to any contract or subcontract if any of the receipts or accruals therefrom are subject to this title.

Mr. President, under the Merchant Marine Act of 1936, there are contracts for seven vessels which were in the course of construction on January 1, 1951. An estimated \$125,000,000 had accrued to contractors at that time. This part of the bill, as it now reads, would free such contracts or subcontracts from the profit limitation provisions of the Merchant Marine Act. The language to which I refer is as follows: "shall not apply to any contract or subcontract if any of the receipts or accruals therefrom are subject to this title."

The \$125,000,000 I understand would also be freed from renegotiation, as the

new renegotiation bill would free merchant marine accruals antedating January 1, 1951. In other words, the \$125,000,000, which I understand has already accrued to contractors, would be exempt, both from the 10 percent limitation of profits, under the Merchant Marine Act, and, because of the dating of the pending renegotiation bill, would also be exempt from renegotiation.

Mr. GEORGE. I have no doubt the Senator is correct in his statement, and that this matter can be dealt with in conference. However, on the point the Senator raises I have an amendment which I think is somewhat clearer, for this reason: The Renegotiation Act of 1948 suspends the profit limitation provisions of the Vinson-Trammell Act, with respect to any contract subject to the 1948 act, but that is not true with respect to the Merchant Marine Act.

Mr. AIKEN. That is correct.

Mr. GEORGE. Therefore, as the Senator properly points out, we would have two conflicting acts, under the amendment, starting on page 4, line 24, after the word "apply", we insert a comma and the following: "in the case of such act of March 27, 1934"—referring to the Vinson-Trammell Act—and then, on page 5, line 2, before the period, we insert a comma and the following: "and, in the case of the Merchant Marine Act, 1936, to any contract or subcontract entered into after December 31, 1950, if any of the receipts or accruals therefrom are subject to this title." I think that will accomplish, in a little clearer way, precisely what the Senator intends by his amendment.

Mr. AIKEN. Do I correctly understand that the entire matter will be considered in conference?

Mr. GEORGE. The entire matter can be considered in conference.

Mr. AIKEN. If that be true, and if it is simply a case of proper wording so as not to exempt either under the Merchant Marine Act or this renegotiation bill the \$125,000,000 which already has accrued to contractors in connection with the construction of these ships, I am not anxious to press the amendment, if the Senator from Georgia can take care of the matter in conference.

Mr. GEORGE. I intended to raise that very question in conference, and, in fact, I had this amendment prepared. I have no objection, if the Senator wishes to offer another amendment.

Mr. AIKEN. No. I did not know that the Senator from Georgia had an amendment in mind.

Mr. GEORGE. The matter could go to conference, and we certainly shall have to notice it then, because there is a necessity of correcting what the Senator has pointed out.

Mr. AIKEN. If the Senator from Georgia, the chairman of the committee, has prepared an amendment, I shall be very happy to withdraw the one which I have offered, and let him submit his.

Mr. GEORGE. I have prepared it. It requires two changes, instead of the one which the Senator has offered. We want to make it clear that the suspension which is intended to apply to contracts under the Merchant Marine Act does

not interfere with the Merchant Marine Act, insofar as the percentage limitations which have already been applied to that contract are concerned.

Mr. AIKEN. That is, until January 1?

Mr. GEORGE. Until January 1; that is correct. I would offer my amendment, or let the Senator offer his, and take it to conference.

Mr. AIKEN. It does not matter to me.

Mr. FERGUSON. Mr. President, will the Senator yield for a question?

Mr. GEORGE. The Senator from Vermont has the floor, though I shall be glad to yield for a question.

Mr. AIKEN. Mr. President, I ask unanimous consent that I may yield to the Senator from Michigan to enable him to address a question to the Senator from Georgia without losing the floor.

The PRESIDING OFFICER. Without objection, the Senator from Michigan may proceed.

Mr. FERGUSON. Is it the purpose of this amendment to make subject to renegotiation money which may already be due and payable under the Merchant Marine Act?

Mr. GEORGE. Does the Senator mean prior to January 1?

Mr. FERGUSON. Yes; prior to January 1.

Mr. GEORGE. No; that is not the purpose. The purpose of this amendment is to leave the contractors under the Merchant Marine Act.

Mr. FERGUSON. So that they might get up to 10 percent under that act?

Mr. GEORGE. Yes.

Mr. FERGUSON. And then, after that date, it would affect all money due or to become due under this law?

Mr. GEORGE. That is correct.

Mr. FERGUSON. That is the purpose?

Mr. GEORGE. That is correct; and since there are two different standards, it is necessary to make this amendment.

Mr. AIKEN. May I ask the Senator from Georgia whether, if the amendment which I have offered is adopted, that will then put before the conference committee everything which should be before the committee?

Mr. GEORGE. I do not think so. I think it is necessary to begin the amendment on page 4, line 24; and if the Senator will accept my amendment, I can assure him the amendment I have has been worked out with some care.

Mr. AIKEN. I shall be very glad to withdraw my amendment, so that the Senator from Georgia may offer the one to which he refers.

The PRESIDING OFFICER. The Senator from Vermont withdraws his amendment. The Senator from Georgia offers an amendment, which the clerk will state.

The LEGISLATIVE CLERK. On page 4, line 24, after the word "apply", it is proposed to insert a comma and the words, "in the case of such act of March 27, 1934,"; and on page 5, line 2, before the period, to insert a comma and the words, "and, in the case of the Merchant Marine Act, 1936, to any contract or subcontract entered into after December 31, 1950, if any of the receipts or accruals therefrom are subject to this title."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. SALTONSTALL. Mr. President, I send to the desk an amendment, which I ask to have read.

The PRESIDING OFFICER. The Senator from Massachusetts offers an amendment, which the clerk will read.

The LEGISLATIVE CLERK. On page 29, line 6, after the word "wool", it is proposed to insert "in the grease or scoured."

Mr. SALTONSTALL. Mr. President, the purpose of this amendment is very simple. I am informed that during World War II the words "ginned cotton and scoured wool" were never thoroughly interpreted, as to whether wool and cotton in those forms were agricultural commodities in the raw or natural state. The purpose of the amendment is to determine whether "wool in the grease or scoured" is an agricultural commodity in its natural state. As I understand, scoured wool is simply cleaned wool, which is still in its raw state. There are in Massachusetts many woolen mills and wool dealers. As I understand, many of the mills do not have the facilities to scour or clean wool. Therefore, if the dealers had to clean wool, the cost would be passed back to the producers and would cut down the price of wool in the natural condition.

I hope the distinguished chairman may be willing to take this amendment to conference, in order that it may be worked out. The Senator stated to me this morning, in answer to an inquiry, that he did not think the bill in its present form included scoured wool. I therefore believe that in the interest of the producer of wool, and in the interest of having wool considered as an agricultural commodity, this is a fair interpretive amendment. I ask that it be taken to conference, there to be perfected.

Mr. LODGE. Mr. President, although I have had no request or notice from anyone representing the wool trade, I am very glad to accept my colleague's statement of the purpose of this amendment. This very vital industry is a tremendous factor in the livelihood of people in Massachusetts and, of course, the woolen industry as a whole is of national significance. I wish to take this opportunity to record myself in favor of the amendment, and to express the hope that it may be agreed to.

Mr. BUTLER of Nebraska. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. BUTLER of Nebraska. Mr. President, I wish to say a word or two on the particular subject now being discussed. When we were considering the bill in committee, one of my main objectives was to see that agricultural products were exempted and to include cleaning or processing in order to put them into a marketable condition. My own personal understanding is that ginned cotton and scoured wool come under the same category.

Mr. GEORGE. Mr. President, I regret that I am not able to take this amendment to conference, for the reason that the Senate committee bill does restore the World War II exemptions. The exemption under the World War II act has been construed, and as construed by regulations of the Department wool was

exempted only if in the grease. Scoured wool is not exempted under the construction of the World War II act. Therefore, the amendment would broaden the exemption to much wider limits than at the present, because the scouring of wool is a step beyond the first form in which it has an established market.

Some of my colleagues have called my attention to the fact that cotton is construed to mean cotton in bale; but cotton in bale is the form in which cotton is ordinarily and generally sold. Of course, it can, as a remnant, be sold in the seed, which sometimes occurs; but that is not the usual and general form. So there is no analogy.

Much as I should like to take the amendment to conference, I am satisfied that to include wool after it had been subjected to the process of scouring would be broadening the exemption quite too far.

Mr. SALTONSTALL. Mr. President, will the Senator from Georgia yield?

Mr. GEORGE. I yield.

Mr. SALTONSTALL. Do I correctly understand the Senator to say that the words which have been inserted by the committee are the same words which were used in the World War II act?

Mr. GEORGE. That is correct; we have gone back to that act, and the words in that act were given a construction which would exclude scoured wool.

Mr. SALTONSTALL. Then, does the Senator believe that the information I have received from the wool group in my home State of Massachusetts to the effect that the term "wool" was never clearly interpreted; is incorrect?

Mr. GEORGE. I think it is; but if it were so, perhaps the Senator would not need any legislation on the subject. I believe, however, that the term was construed by regulations to mean wool in the grease.

Mr. SALTONSTALL. So that if the wool is going to be exempted, it has to be wool in the grease, and it has to be sold as wool in the grease, rather than as scoured wool?

Mr. GEORGE. I believe the Senator is correct.

Mr. SALTONSTALL. If a dealer sells scoured wool, having scoured it himself before he sells it, he has to take that into consideration in the price he quotes the producer; does he not?

Mr. GEORGE. That is correct; it might have that effect, and undoubtedly would have that effect. But scouring is a step in the processing of wool, it is one degree beyond the form in which wool is generally and customarily sold.

Mr. SALTONSTALL. But, as I understand, scoured wool is merely cleaned wool. That is correct; is it not?

Mr. GEORGE. That is my understanding.

Mr. SALTONSTALL. In the Senator's opinion, that is one step in a process, and therefore it is no longer a commodity in the raw?

Mr. GEORGE. I may say to the Senator that it is so interpreted. Perhaps the interpretation is not correct, but it was so interpreted under the World War II act provision.

Mr. SALTONSTALL. Assume the bill is left in its present form, without any change, without the amendment which I have offered, the word "wool" would still be open to an interpretation which might include scouring. It might be reinterpreted so as to include scoured wool, as well as wool in the grease; might it not?

Mr. GEORGE. It might be, if the conclusion might now be reached that it is erroneous to confine the interpretation to wool in the grease only, if I understood the Senator's question.

Mr. SALTONSTALL. That was my question.

Mr. GEORGE. It might be so construed, but having been construed as wool which had not passed out of the grease form, I could only remind the Senator of the construction which was given to the term as it was used in the old act, namely, that it did not include scoured wool, but only wool in the grease.

Mr. SALTONSTALL. Therefore, a wool trader or a wool broker would have to sell the wool in the grease, or, if he had to scour it, he would have to consider the scouring as a separate process, and charge someone for it?

Mr. GEORGE. That is correct. That is the theory on which the interpretation I have cited was placed upon the act.

Mr. SALTONSTALL. If, under the interpretation of the act, scoured wool were now included by the amendment I have offered, with the support of my colleague, it would differentiate wool from every other agricultural commodity, would it?

Mr. GEORGE. I believe it would, because it would carry the commodity to a process beyond what is now ordinarily the process through which the commodity must pass in order to get into the merchantable or marketable shape in which it is generally and customarily sold.

Mr. BUTLER of Nebraska. Mr. President, the only purpose I have in suggesting support for the amendment proposed by the senior Senator from Massachusetts is that it is in the interest of the producer. The whole purpose of exempting agricultural commodities in their raw stage, and every stage in which they become marketable, is to protect the producer. That was the reason why cotton was exempted until it had been ginned, and that is exactly the reason why wool should be exempted until it has been cleaned. I believe the amendment suggested by the Senator from Massachusetts should be accepted.

Mr. GEORGE. There might be some reason for so construing the word "wool," but I must remind the Senator that cotton is not usually and customarily sold in the seed. In fact, it would be purely accidental, or done to meet the exigencies of a particular case. It must ordinarily, generally, and customarily be ginned before it is placed in a condition to be sold.

Mr. KERR. Mr. President—

The PRESIDING OFFICER (Mr. HOLLAND in the chair). Does the Senator from Georgia yield to the Senator from Oklahoma?

Mr. GEORGE. I yield.

Mr. KERR. Is the answer of the Senator predicated on the fact that the seed is the heaviest part of the cotton, and is usually consumed in the area where it is produced, and the lint is the lesser weight of the cotton, and is generally processed at a place distant from where it is produced?

Mr. GEORGE. The Senator is correct. Personally I should like to take the amendment to conference, but I realize that it would open the bill to very severe attack, and I am anxious to see the World War II act restored, because it has been construed, it has been applied, and it did function fairly well.

Mr. WHERRY. Mr. President, will the Senator from Georgia yield?

Mr. GEORGE. I yield to the Senator from Nebraska.

Mr. WHERRY. I am somewhat confused by the answer of the distinguished Senator from Georgia. Wool in the grease certainly is a raw product. While the scouring may be one step in processing, what is the difference between wool that is scoured and wool in the grease, so far as industrial use is concerned? It is not fabricated until it is scoured.

Mr. GEORGE. I believe that is true ordinarily. I believe if the Senator will study the question very carefully he will find that even in the tariff acts Congress has always differentiated between wool in the grease and scoured wool, and the yarn, and wool in the different processes. I think a distinction between wool in the grease and scoured wool was made in the Tariff Act of 1930, known as the Smoot-Hawley Act. I am pretty sure that my recollection is correct in that respect. I know there was a great deal of discussion, and that we spent the whole summer on that bill before there was any air-cooling system in the Capitol.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. WHERRY. Would it not be unfortunate to classify wool which had not been used for fabricating purposes, or which was not intended to be used for fabricating purposes, in any other way except as wool in the grease? In other words, someone may be required to pay for something which does not exist. I can see how a distinction could be made for tariff purposes. The point made by the Senator from Massachusetts and my colleague from Nebraska has raised some doubt in my mind. Why should scoured wool be placed in a different class than wool in the grease, for the purposes of this proposed act, on the theory that scoured wool represents the result of one step in the process, when that is not the fact, because scoured wool is just as much a raw material as wool in the grease? The wool has not been fabricated up to that stage. Perhaps there is nothing to argue about on that point.

Mr. GEORGE. The Senator may be right. However, the same language in the World War II Act was made the subject of regulation and construction by the Board. The Board may have committed an error, but they construed wool to mean only wool in the grease.

Mr. WHERRY. That would establish a precedent, which might be followed at this time, or might not be followed. I am wondering whether the distinguished Senator would not agree to do in the case of wool what is done in the case of other products. It may be that the same construction would be placed upon the word "wool" which was applied in the last act. Why could not the Senator take the question to conference and discuss it with the conferees, on the theory that there is no intention to grant anything to wool which is not being granted to any other product, but that, until wool is in a stage or process for industrial use, wool in the grease and scoured wool come under the same classification?

Mr. SALTONSTALL. Mr. President, will the Senator from Georgia yield so that I may ask a question of the Senator from Nebraska?

Mr. GEORGE. I yield.

Mr. SALTONSTALL. What I am about to say comes to me second-hand. However, I understand that in some instances farmers who think they will get a better price, or hope to get a better price, scour their own wool and then try to sell it directly to the mill. I do not think they would do it if scoured wool were not interpreted as wool in the raw or in the grease. Therefore, it does affect the price received by the producer of a raw agricultural product.

Mr. WHERRY. That is what I had in mind. I do not know to what extent that has been done. It may represent only a small percentage. My feeling is that if a construction could be placed on what is meant by raw wool as wool which had not been previously processed, regardless of the form in which it came from the producer, whether scoured or in the grease, it could be placed in the same class.

Mr. SALTONSTALL. Mr. President, will the Senator from Georgia yield further so that I may ask another question of the Senator from Nebraska?

Mr. GEORGE. If I have the time to yield, I do so.

Mr. SALTONSTALL. The Senator from Georgia is very courteous and helpful.

The PRESIDING OFFICER. The time of the Senator from Georgia has expired. The Senator from Massachusetts has 12 minutes remaining.

Mr. SALTONSTALL. Mr. President, I wonder whether the Senator from Georgia would be willing to take the matter to conference in an attempt to work out an interpretation, and clear up the subject. It might be helpful to him and his conferees. If, on the other hand, there is no further information available, and scouring is one step in the process, that would be another matter. At least we would be able to look into the subject a little more fully.

Mr. GEORGE. I am almost persuaded by my distinguished friend from Massachusetts, but I am not quite persuaded. I will do this: I will ask the House managers if they would be willing to indicate in their report that the word "wool" had been a bit too narrowly interpreted under the World War II act. That might be of help to the Senator.

That is as far as I could go without opening the bill to very serious changes.

Mr. SALTONSTALL. Knowing him as well as I do, I am sure the Senator from Georgia will handle it to the best of his ability.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. SALTONSTALL. I yield 5 minutes to the Senator from Texas.

Mr. CONNALLY. I will not need more than 2 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. CONNALLY. Is it not true, however, that the only agricultural form in which wool is produced is in the grease, and that scouring is an additional process over and above the raising and production of the wool?

Mr. GEORGE. I think the Senator is correct. In my opinion, that is what persuaded the Board, under the World War II act, to say that the term referred only to wool in the grease.

Mr. CONNALLY. Otherwise, wool yarn could be included.

Mr. GEORGE. Yes; or any successive step. As I understand, scouring is a necessary step in the process. However, there is a ready market for wool in the grease.

Mr. CONNALLY. As I recall, scoured wool weighs only about a third of what raw wool weighs. Is that correct?

Mr. O'MAHONEY. Mr. President, if the Senator from Texas addressed his inquiry to me, as I judge he did, I would say that scouring takes nothing from the wool. It merely removes—

Mr. CONNALLY. The grease and dirt.

Mr. O'MAHONEY. It removes the sand, dirt, and grease which may have gathered upon the back of the sheep on the range. The wool, as a product, is not at all changed by the process of scouring. From my point of view, scouring does not constitute a step in the processing of wool.

Mr. SALTONSTALL. Mr. President, I yield whatever time the Senator from Nebraska desires to take.

Mr. BUTLER of Nebraska. I shall not need very much time. Having been in the business of handling agricultural products, I can say very definitely that there are few, if any, agricultural products which are handled in their absolute raw stages as they come from an individual farmer. Wheat, for example, when it is finally sold, has been cleaned. Some of it is clipped. It has been separated into different varieties as to protein, and other classifications. However, it is still in its raw state, and is so considered by the Renegotiation Board. Wool, on the other hand, must be handled in the condition in which it comes from the back of the sheep. It may have cockleburs in it. If cotton has cockleburs in it, the burs are picked off. Cotton is taken out of the boll and is cleaned. It is put in a merchantable condition. That is not permitted in the case of wool. I believe there is great similarity between cotton and wool. In fact, I believe they are identical. As I said before, no other agricultural crop

is handled in its absolutely raw form. Every one of them has been processed to some extent before it goes to market.

Mr. LANGER and Mr. O'MAHONEY addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield; and if so, to whom?

Mr. BUTLER of Nebraska. I yield to the Senator from North Dakota.

Mr. LANGER. It is true, is it not, that in all the Western States—I believe without exception—the farmers have what is known as a wool pool?

Mr. BUTLER of Nebraska. Yes.

Mr. LANGER. They send their wool to a central place. Usually there is one such place in each State. Some States have two such places. The wool pool scours the wool before it is offered for sale, and it really is in the raw state.

Mr. BUTLER of Nebraska. The Senator is correct.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. BUTLER of Nebraska. I yield.

Mr. O'MAHONEY. I should like to call to the attention of the Senator from Nebraska and the Senator from Georgia the fact that the line which is proposed to be amended by the Senator from Massachusetts lists several commodities. It refers to the produce of live animals, such as wool, eggs, milk, and cream. Beginning with the last, it is obvious that cream must be separated from the milk. Is that processing? Of course not. It is not so regarded. Take the case of eggs. Is it not a fact that every farmer expects eggs to be washed before they are sent to market? Is anyone to interpret this language as meaning that, for the purposes of this legislation, "eggs" means unwashed eggs? Likewise, how can it be argued that "wool" means unwashed wool?

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. BUTLER of Nebraska. I yield.

Mr. WHERRY. Is it not a fact that corn in the crib must be shelled before being loaded into a boxcar?

Mr. O'MAHONEY. There is no doubt about that; but this provision deals with animal products.

Mr. WHERRY. My colleague mentioned wheat. Wheat must be cleaned. It must be harvested. The same argument applies to a great many other agricultural products.

Mr. O'MAHONEY. Certainly.

Mr. JOHNSON of Colorado. Mr. President, I should like to ask the Senator from Wyoming if it is not true that when a producer sells wool in the grease, the weight of the dirt, cockleburs, sand, and everything else that is in the wool is calculated, and the actual price of the wool in grease is on the basis of scoured wool. Wool in grease varies in price perhaps as much as 5 cents, depending upon whether or not there is excess grease.

Mr. O'MAHONEY. There is an estimate as to the shrinkage which would result from the process of scouring.

Mr. JOHNSON of Colorado. That is correct.

Mr. O'MAHONEY. But that is not a manufacturing process. It is merely a cleansing.

Mr. JOHNSON of Colorado. That is correct.

The PRESIDING OFFICER. Is there further debate?

Mr. HUMPHREY. Mr. President, has this amendment been disposed of?

The PRESIDING OFFICER. It has not been disposed of. The Chair is advised that 3 minutes remain of the time of the Senator from Massachusetts [Mr. SALTONSTALL].

Mr. WHERRY. Mr. President, will the Senator yield to me?

Mr. SALTONSTALL. I yield 2 minutes to the Senator from Nebraska.

Mr. WHERRY. In the time of the Senator from Massachusetts, I should like to ask the distinguished Senator from Georgia just what he agreed to do with respect to this amendment. What was the comforting assurance which he gave to the distinguished Senator from Massachusetts?

Mr. GEORGE. I stated that I would ask the House conferees if they would include in their statement on the conference report a sentence to justify including scoured wool.

Mr. WHERRY. That is, that such a recommendation be contained in the report of the House conferees?

Mr. GEORGE. Yes. That would go into the report of the House conferees. They must make a report to the House, as the Senator from Nebraska well knows. Such a statement would interpret the term.

Mr. WHERRY. As I understand, the Senator does not feel that he could take the amendment to conference with the understanding that the conferees would do the best they could to accomplish the purpose desired.

Mr. GEORGE. If the Senator—

Mr. WHERRY. I am not going to insist.

Mr. GEORGE. I know that this is a close question. If the Senator can assure me that no effort will be made to strike from the bill the mandatory exemptions of farm and animal products, I will do as he suggests. If the Senator would wait until we are ready to pass the bill, I might be able to get the amendment into conference so that it could be considered.

Mr. WHERRY. I can not guarantee anything except what the junior Senator from Nebraska will do.

Mr. SALTONSTALL. Mr. President, on the statement which the Senator from Georgia has just made, I temporarily withdraw my amendment and trust that I may be able to obtain recognition prior to the passage of the bill.

Mr. GEORGE. I thank the Senator for withdrawing his amendment.

Mr. HUMPHREY. Mr. President, at this time I move to reconsider the vote by which the committee amendment beginning in line 6 on page 36 and extending through line 17 on the same page, was adopted. I wish to make a few remarks with reference to the amendment which I intend to offer.

It is my intention, should the motion to reconsider be agreed to, to move that the House language beginning with line 19 on page 35 and extending through line 5 on page 36, be restored to the bill, with one exception, namely, that the

salary of members of the Renegotiation Board and of the chairman of the Board shall be made as approved by the Senate Finance Committee.

Mr. GEORGE. Mr. President, will the Senator yield to me?

Mr. HUMPHREY. I am happy to yield to the Senator from Georgia.

Mr. GEORGE. I have no right to speak for the committee as a whole. However, I am prepared to offer, on my own behalf, an amendment if it would be agreeable to the Senator, as follows:

(a) Creation of Board: There is hereby created as an independent establishment in the executive branch of the Government a Renegotiation Board, to be composed of five members to be appointed by the President by and with the advice and consent of the Senate. The Secretaries of the Army, the Navy, and the Air Force, respectively, subject to the approval of the Secretary of Defense and the Administrator of General Services, shall each recommend to the President for his consideration one person to serve as a member of the Board. The chairman shall receive compensation at the rate of \$17,500 per annum, and the other members shall receive compensation at the rate of \$15,000 per annum. The Board shall have a seal which shall be judicially noticed.

I call the Senator's attention to the fact that this amendment would take the appointment out of the hands of the Secretaries. Under the terms of this amendment they would be given authority only to recommend to the President for his consideration. Of course, I am obliged to say that their recommendations would not be binding upon the Chief Executive. Nor do I think we could make them binding upon the Chief Executive, because I think that would be an invasion of the appointive power residing strictly and solely in the Executive.

Mr. President, I am willing to ask that the vote by which the committee amendment was agreed to be reconsidered, and to offer this amendment, if it meets with the approval of the Senator from Minnesota. Of course, it would throw the entire subject into conference.

Mr. HUMPHREY. Mr. President, I should like to make one observation with respect to the suggested amendment of the distinguished chairman. It meets pretty much what I have in mind. First of all, I had doubt as to whether or not the language of the committee amendment, as printed, would even meet the test of constitutionality so far as the nominating powers of the President are concerned. That question may be debatable.

I invite attention, in the House language, to the following provision:

No member shall engage in any business, vocation, or employment other than that as a member of the Board.

In view of the salaries which have been suggested by the committee, and which I think are certainly desirable, I believe that we should retain that language. With that language, I would be more than willing to place my support behind the amendment of the Senator from Georgia, and urge its acceptance by the Senate.

Mr. GEORGE. Mr. President, there might be some objections to putting it so broadly. If the Senator means he

shall not be actively engaged, very well. He may be a professional man and be engaged in his profession, although he may temporarily—

Mr. HUMPHREY. I would consent to the use of the word "actively."

Mr. GEORGE. Although he may temporarily be in retirement from active duty. But he still is a lawyer, if he happens to be a lawyer.

Mr. HUMPHREY. Yes. I would say that that qualification is very desirable. That is, that no member shall be actively engaged in any business, vocation, or employment other than that as a member of the Board. If the Senator will accept that addition to his amendment, I think I can withdraw my motion.

Mr. GEORGE. I should be pleased to add that language to the amendment, or we can insert it at the proper place in the amendment. If the Senator will read the sentence to see where it should be inserted, we will carry the matter to conference. Of course, it will be in conference anyway, because the House and Senate are in disagreement on this very important matter. I have an idea that the House Members probably will be pretty stout in insisting on their provision creating the Board.

Mr. HUMPHREY. I may say to the Senator from Georgia that as I now understand the situation it would be necessary for the junior Senator from Minnesota to withdraw his motion to reconsider, and at that time the Senator from Georgia would offer his amendment to include words "No member shall actively engage in any business, vocation, or employment other than as a member of the Board." That language could be incorporated.

The PRESIDING OFFICER (Mr. HOLLAND in the chair). The Chair is advised by the Parliamentarian that the proper method of handling the situation would be for the motion to reconsider to be withdrawn, and that the new proposed amendment by the Senator from Georgia, as amended by the suggestion of the Senator from Minnesota, be adopted by unanimous consent, if such consent be given.

Mr. HUMPHREY. I should like to ask the Senator from Georgia a question. If the Senator from Minnesota withdraws his motion to reconsider, will it be agreeable that the words I have suggested be included?

Mr. GEORGE. That would be agreeable. I shall be very glad to take it to conference.

Mr. HUMPHREY. I thank the Senator from Georgia.

Mr. GEORGE. Of course, we might add an additional phrase "actively engaged while serving as such member." But I presume that is the meaning.

Mr. HUMPHREY. That is the intent.

Mr. GEORGE. That is the intent. That would be the proper construction probably.

Mr. HUMPHREY. I should like to say further that I have read the portions of the committee amendment on page 38 which deny any procurement officer the right to serve in any capacity for the Board, either in the delegation of powers or in the redelegation, and I wish to commend the committee, particularly

the chairman, for that foresight, in view of the testimony which has been given in previous years with respect to renegotiation. So with that, Mr. President, I withdraw my motion to reconsider.

The PRESIDING OFFICER. As the Chair understands the situation, the motion to reconsider is withdrawn.

Mr. GEORGE. I ask unanimous consent, Mr. President, that the Senate reconsider the vote by which the amendment on page 36 was agreed to in the first place.

The PRESIDING OFFICER. The question is on reconsidering the vote by which the amendment on page 36 was agreed to. Is there objection. The Chair hears none, and the vote is reconsidered.

Mr. GEORGE. Mr. President, I send to the desk an amendment as a substitute.

The PRESIDING OFFICER. The clerk will read the proposed substitute amendment for the information of the Senate.

The LEGISLATIVE CLERK. On page 36, it is proposed to strike out lines 6 through 17, and to insert in lieu thereof the following:

(a) Creation of Board: There is hereby created, as an independent establishment in the executive branch of the Government, a Renegotiation Board to be composed of five members to be appointed by the President, by and with the advice and consent of the Senate. The Secretaries of the Army, the Navy, and the Air Force, respectively, subject to the approval of the Secretary of Defense and the Administrator of General Services, shall each recommend to the President, for his consideration, one person to serve as a member of the board. The chairman shall receive compensation at the rate of \$17,500 per annum, and the other members shall receive compensation at the rate of \$15,000 per annum. No member shall actively engage in any business, vocation, or employment other than as a member of the Board. The Board shall have a seal which shall be judicially noticed.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the committee amendment on page 36.

The amendment to the amendment was agreed to.

The committee amendment, as amended, was agreed to.

Mr. HUMPHREY. Mr. President, at this time I move to reconsider the vote by which the committee amendment relating to minimum amounts subject to renegotiation was adopted. The purpose of my motion to reconsider the vote by which the committee amendment relating to minimum amounts subject to renegotiation was adopted is to secure the attention and cooperation of the chairman of the Finance Committee to see what the spirit of the committee will be in terms of the conference committee and its report.

Mr. GEORGE. Mr. President, I am fully in a position to give the Senator a direct and definite statement on that point. On my motion, as a member of the Finance Committee, \$300,000 was written in as the ceiling, and I was quite content with that. There was, of course, much argument on preceding days, and finally some suggestion was made that the amount be raised to \$500,000, because

the matter had, of course, to go to conference. By virtue of the depreciated value of the dollar, we agreed that the amount should be \$250,000 or \$300,000, which would be almost equivalent to \$100,000 at the time we passed the World War II Act. I would not hesitate to say to the Senator that as one member of the conference I would think the amount ought to be \$300,000 or \$250,000, somewhere in that neighborhood. If the House conferees would agree to that I am sure the Senate conferees would be glad to acquiesce in their agreement. I have no doubt that we can agree on that question when it is fully considered by the conferees on the part of the House.

Mr. HUMPHREY. Mr. President, I may say to the Senator from Georgia that, if the motion to reconsider was favorably acted upon, it was my intention to offer an amendment to insert \$250,000. As the chairman of the Finance Committee has pointed out, the \$100,000 figure in the World War II Renegotiation Act would be equivalent today to about \$240,000 or \$250,000 in terms of the depreciated value of the dollar. I know the chairman of the Finance Committee is most persuasive—as he has demonstrated this afternoon without a shadow of a doubt—and since I have received his own expression as to what he feels to be an appropriate and adequate figure for the minimum amount subject to renegotiation, I feel that possibly the best way to handle this is to have my comments as a point of record in the Senate debate urging that the figure of \$250,000 be the figure finally decided upon by the conference committee.

I desire to point out the importance of this matter. The testimony which was taken during the Eightieth Congress in particular, as set forth in Senate Report No. 440, part 2, Eightieth Congress, second session, indicated quite clearly that substantial sums of money could be reclaimed under negotiation without injury to the business concerns themselves, if a minimum figure, which at that time was \$100,000, was incorporated in the legislation. I feel now, in view of the inflation and the rise in the cost of commodities, of labor, and of what we may call other costs of production, that the \$250,000 figure would be adequate.

The War Department Price Adjustment Board furnished the committee of the Eightieth Congress a study of the renegotiation of companies in the \$100,000 to \$500,000 bracket under the 1942 act. Of 3,728 cases in this bracket, 1,631, or 44 percent were found to have made excessive profits totaling \$57,371,000. Even more interesting is a tabulation of a group of 13 companies selected at random, all in the \$100,000 to \$500,000 bracket during 1943 and therefore not subject to renegotiation. These companies had average profits of 38.1 percent of gross sales. One company's profit was 91 percent of its \$152,880 in gross sales.

I should also like to point out that the conclusions and recommendations of the Special Senate Committee To Investigate the National Defense Program, in

the Eightieth Congress, second session, include the following very straightforward recommendation:

The committee believes that any future Renegotiation Act be improved in the following specific ways:

(a) By bringing within its operation all contractors with an annual war business exceeding \$100,000.

Mr. President, let me ask the Senator from Georgia whether he feels it would fortify his case if we should vote on reconsideration at this time, in order to write into the bill a figure which could be used for his purposes in conference; or would it be advisable for the junior Senator from Minnesota to withdraw his motion to reconsider and place his reliance in what he knows to be the honor and integrity of the chairman of the Finance Committee?

Mr. GEORGE. Mr. President, I would unhesitatingly say to the Senator that I think we would come nearer to accomplishing our purpose if the Senator would withdraw his motion to reconsider, and would permit the amendment to remain as it is. I am not at all sure that the House would agree to have this figure raised above \$100,000, but I am hopeful that the House would agree to raise it to at least \$250,000 or \$300,000. Inasmuch as skilled men to handle these matters will be scarce, and, furthermore, in view of the fact that at the prevailing high, inflationary prices of today, only one or two contracts could easily amount to \$100,000 or \$200,000, I think a limitation of \$250,000 or \$300,000 would be low enough to protect both the Government and the contractors.

Moreover, I call the Senator's attention to the fact that under the 1942 act a contract for \$100,000 or less was thrown out.

Mr. HUMPHREY. I understand.

Mr. GEORGE. That is not true under the bill now before the Senate.

In short, because of the possibility of the existence of a multiplicity of even small contracts, at the present high prices a contractor may during one fiscal year soon run his account with the Government up to \$200,000 or \$300,000, if he is doing a large amount of business with the Government.

I think what the Senator from Minnesota has in mind would be better accomplished if he would be disposed to withdraw his motion at this time.

Mr. HUMPHREY. I am surely disposed to withdraw my motion to reconsider, in view of the comments which have been made by the chairman of the Finance Committee and in view of what all of us know will be his position and his intention in the confines of the committee of conference.

The PRESIDING OFFICER. The Senator from Minnesota desires to withdraw his motion to reconsider. Unanimous consent is required for that purpose. Is there objection? The Chair hears none, and the motion to reconsider is withdrawn.

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed at this point in the Record, as a part of my remarks, an excerpt from Report No.

440, part 2, Eightieth Congress, second session, on page 234.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The administrators of the act also urge that the base for renegotiation be reduced from \$500,000 to \$100,000. The original act in 1942 applied to all annual business in excess of \$100,000 but this was raised in the 1943 act to \$500,000 at the request of the Price Adjustment Boards. At that time very slow progress had been made in renegotiation and a vast volume of work was facing the Boards. It was felt that the possible recovery from concerns in the \$100,000 to \$500,000 bracket would not justify the time and expense of renegotiating them. At that time this committee also recommended the elimination of concerns with less than \$500,000 in war business. The committee now feels in view of our wartime experience in the administration of the renegotiation laws that this recommendation was a mistake. It should be noted, however, prior to the passage of the 1943 act, Senator Carl Hatch, then chairman of the Subcommittee on Renegotiation, of this committee, testified before the Senate Committee on Finance that further studies by this subcommittee indicated that the backlog of cases before the Boards was rapidly dwindling and that it might not be desirable to make the change. He pointed out that excessive profits on \$100,000 of business were very possible.

The administrators of the act testified that recoveries of excessive profits from contractors in this bracket probably would not be large. The principal reason for this recommendation, they stated, was that in their experience most of the complaints they received about excessive profiteering during the war were directed at contractors with less than \$500,000 annual war business. It was damaging to war morale, they thought, to let contractors in this bracket retain excessive profits while neighboring contractors with over \$500,000 war business annually were renegotiated. It also frequently happened that contractors about whom complaints were received were located in small communities where it soon became common knowledge that the contractor was profiting excessively.

The War Department Price Adjustment Board furnished the committee a study of the renegotiation of companies in the \$100,000 to \$500,000 bracket under the 1942 act. Of 3,728 cases in this bracket, 1,631 or 44 percent were found to have made excessive profits totaling \$57,371,000. Even more interesting is a tabulation of a group of 13 companies selected at random, and all in the \$100,000 to \$500,000 bracket during 1943 and therefore not subject to renegotiation. These companies had average profits of 38.1 percent of gross sales. One company's profits were 91 percent of its \$152,880 in gross sales.

Administrators of the act testified that companies in this bracket could be renegotiated with very few more renegotiators and that the cost of renegotiating them would be very small.

There was some indication that the \$500,000 limitation also served to discourage some subcontractors from accepting additional war work that would have put their gross business over this amount and subject them to renegotiation. There was also evidence that an attempt to avoid the base limitation was made by some individuals who set up new businesses to take war work that would subject the individual to renegotiation. This was discouraged to a certain extent by the statutory provision and regulations bringing within renegotiation concerns under common control if the gross aggregate business was in excess of \$500,000. However, proof

of common control was at times hard to establish and no doubt where such common control was not obvious the companies avoided renegotiation.

CONCLUSIONS AND RECOMMENDATIONS

1. The committee believes that the renegotiation law, coupled with the excess-profits tax, is more likely to be successful and equitable than any other less flexible method. No more desirable method of reducing war profiteering was suggested to the committee.

2. The renegotiation system should be incorporated in a general industrial mobilization plan ready to be put into operation at once in the event of an emergency.

3. The factors to be considered in determining what is a fair profit in time of war should be set forth more specifically and with greater particularity.

4. In deciding what is a fair profit, the committee feels that any future renegotiation law should emphasize the importance of net worth as a factor in deciding a fair profit for a company during a war. In this way the growth of war millionaires could be prevented or greatly curtailed.

5. The renegotiation agency should be a separate agency, independent from any procurement authority, designed to handle the renegotiation of all services and branches of the Government.

6. The committee believes that any future Renegotiation Act be improved in the following specific ways:

(a) By bringing within its operation all contractors with an annual war business exceeding \$100,000.

(b) Including war contracts of all Government agencies.

(c) By eliminating all mandatory and permissive exemptions so that all Government contractors with more than an annual business of \$100,000 are renegotiated.

7. The committee recommends the establishment of regional price adjustment boards in each area, in order to eliminate duplication of facilities and services.

The PRESIDING OFFICER. Are there further amendments to be proposed?

Mr. SALTONSTALL. Mr. President, I now call up and offer again my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

Mr. GEORGE. Mr. President, I would agree to waive the reading of the amendment by the clerk; and in line with my statement to the Senator from Massachusetts, I shall be very glad to have the amendment go to conference. That certainly will give the conferees on the part of the House an opportunity to place their interpretation on the bill as it now stands.

Mr. SALTONSTALL. Mr. President, I appreciate very much the courtesy of the chairman of the committee.

Will the Chair put the question on the amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment submitted by Mr. SALTONSTALL, for himself and Mr. LODGE, was agreed to, as follows:

On page 29, line 6, after "wool", insert "in the grease or scoured."

Mr. LANGER. Mr. President, I move that the vote by which the amendment on page 37, in line 7, was agreed to, be reconsidered. The wording of the

amendment is as follows: "(but without regard to the civil-service laws and regulations)."

Mr. President, this board may appoint thousands upon thousands of employees. We are spending millions of dollars for the Civil Service Commission, and we have working for the Commission many men and women in almost every region of the United States. I do not see any sense in having all these appointments made without regard to the civil-service laws and regulations. Therefore, I move to reconsider the vote by which this amendment was adopted.

The PRESIDING OFFICER. Under the unanimous-consent agreement already entered, the Senator who has made the motion has 15 minutes in which to speak, if he desires to use that much time; and the chairman of the Finance Committee has 15 minutes to discuss the motion, if he desires to do so.

Mr. GEORGE. Mr. President, I sincerely hope the Senate will not reconsider its vote on this amendment. While the bill does provide that such employees shall not be subject to the civil service laws, yet it expressly requires them to be under the salary Classification Act.

Of course, it is obvious the Board must obtain competent employees quickly and without delay.

At this time, when manpower may become scarcer and scarcer, it is believed necessary to take this action. I hope the Senate will not agree to the motion to reconsider.

Mr. KERR. Mr. President, will the Senator yield for a question?

Mr. GEORGE. I yield.

Mr. KERR. Was it brought out in the hearings with reference to this particular item, by the representatives of the present Renegotiation Board, that in their search for competent help in reference to the technical and very highly classified tasks of renegotiation, they had to go beyond the registers of the Civil Service Commission, and had been compelled to do so even in order to operate the limited Renegotiation Act now on the statute books?

Mr. GEORGE. I think that is correct. As I recall, such evidence was produced before the committee. I know the committee felt it was well advised to give the Board the opportunity to make up its personnel subject to the provisions of the Classification Act, but not subject to the requirements of the civil service laws and regulations.

Mr. LANGER. Mr. President, this matter is so important that, in connection with it, I suggest the absence of a quorum, before I speak further in regard to it.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Alken	Byrd	Cordon
Anderson	Cain	Douglas
Bennett	Capehart	Duff
Brewster	Carlson	Dworshak
Bricker	Case	Eastland
Bridges	Chapman	Eaton
Butler, Md.	Clements	Ellender
Butler, Nebr.	Connally	Ferguson

Flanders	Kerr	Neely
Frear	Killgore	O'Connor
Fulbright	Knowland	O'Mahoney
George	Langer	Pastore
Green	Lehman	Robertson
Hayden	Lodge	Russell
Hendrickson	Long	Saltonstall
Hennings	McCarran	Schoeppel
Hickenlooper	McCarthy	Smathers
Hill	McClellan	Smith, Maine
Hoey	McFarland	Smith, N. J.
Holland	Magnuson	Smith, N. C.
Humphrey	Malone	Stennis
Hunt	Martin	Taft
Ives	Maybank	Thye
Johnson, Colo.	Millikin	Tobey
Johnson, Tex.	Monroney	Watkins
Johnston, S. C.	Morse	Wherry
Keauever	Mundt	Wiley
Kem	Murray	Williams

The PRESIDING OFFICER. A quorum is present. The question is on agreeing to the motion of the Senator from North Dakota [Mr. LANGER].

Mr. LANGER. Mr. President, has my time expired?

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired. The question is on agreeing to the motion of the Senator from North Dakota.

Mr. LANGER. Mr. President, will the Senator from Georgia yield 1 minute to me?

Mr. GEORGE. Mr. President, I have no time to yield. My time has expired.

Mr. McFARLAND. Mr. President, I ask unanimous consent that the Senator from North Dakota be allowed to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, the Senator from North Dakota is recognized for 1 minute.

Mr. LANGER. Mr. President, the question before the Senate is whether, in the appointment of employees, we are to disregard the civil-service laws and regulations. The paragraph I have in mind reads:

The Board is authorized, subject to the Classification Act of 1949 (but without regard to the civil-service laws and regulations), to employ and fix the compensation of such officers and employees—

In other words, the salary is fixed. If the committee amendment were not adopted, the employees would be taken from the civil-service rolls.

Mr. President, we are spending millions of dollars for civil service. Why should an important Board like this not take its employees from the civil-service list or register? All I am asking is that line 7 be eliminated, which says: "(but without regard to the civil-service laws and regulations)."

Mr. GEORGE. Mr. President, I do not wish to take the time of the Senate. Testimony before the committee was to the effect that the Board, in order to get the experienced people who were required to do the job imposed on it by the Reorganization Act of 1948, had to go outside the register to get them. It also appeared that in many instances, they could get retired businessmen, retired professional men, retired teachers, and others who could not qualify under civil service. At the present time when we need manpower, we thought it would be wise to say, "You need not go to civil service, but you will be limited by the Classification Act as to the salaries to be paid." That is why the committee

came to its conclusion. This is a temporary job. It is not a lifetime job. I hope the Senate will not reconsider its vote.

Mr. LANGER. Mr. President, how much time do I have remaining of my minute?

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired. The question is on agreeing to the motion of the Senator from North Dakota [Mr. LANGER] to reconsider the vote by which the committee amendment was agreed to.

Mr. LANGER. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered. The motion was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. GEORGE. Mr. President, I send forward a unanimous-consent request which I ask to have stated.

The PRESIDING OFFICER. The request will be stated.

The legislative clerk read as follows:

I ask unanimous consent that—

(1) The bill be printed with the Senate amendments numbered.

(2) That in the engrossment of the amendments of the Senate to the bill, the Secretary of the Senate be authorized to make such changes in section, subsection, paragraph, etc., numbers and letters and cross-references thereto as may be necessary to the proper numbering and lettering of the bill.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is granted.

Mr. GEORGE. Mr. President, I now move that the Senate insist upon its amendments, request a conference thereon with the House of Representatives, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. GEORGE, Mr. CONNALLY, Mr. BYRD, Mr. JOHNSON of Colorado, Mr. MILLIKIN, Mr. TAFT, and Mr. BUTLER of Nebraska conferees on the part of the Senate.

ALLEGED BARTER AND SALE OF FEDERAL OFFICES IN MISSISSIPPI

Mr. EASTLAND. Mr. President, I desire to call the attention of the Senate to an Associated Press dispatch from McComb, Miss. It has to do with the barter and sale of Federal jobs in the State of Mississippi. The dispatch reads:

McComb, Miss., February 20.—A Mississippi publisher charged today that several Mississippians offered jobs as county economic stabilization directors were first asked to contribute \$300 to \$400 to the Truman faction of the State's Democratic Party.

The charge was made by Publisher J. Oliver Emmerich, a leader in the States' rights movement, in his McComb Enterprise-Journal.

Emmerich said that a businessman had been asked for a \$300 contribution when offered the job as Pike County (McComb) economic stabilization director.

At Washington, it was reported that all district and regional offices now being set up will be under the Office of Price Stabilization instead of the Economic Stabilization Agency.

OPS Director Michael DiSalle said:

"We are turning this matter over to our enforcement division for investigation. If it is found there is any truth to it we will ask the Justice Department to prepare indictments for submission to a grand jury. Furthermore, if we find any of our own people involved in it, they will be dismissed and prosecuted, if subject to prosecution."

My colleague [Mr. STENNIS] and I desire to explain the matter and its background to the Senate. For a great many months we have been getting reports of the widespread sale of Federal jobs in Mississippi by people in the State who have organized a committee which calls itself the Mississippi Democratic Committee, and which is recognized and affiliated officially with the Democratic National Committee, indeed, it was set up by the Democratic National Committee. It was created by it. It is its agent. It is its instrumentality. It is its official representative in Mississippi. In fact, this committee in Mississippi dispenses all Federal jobs and Federal Government favors in the State.

Judging from repeated reports, this situation has become so bad and so corrupt that my colleague and I have had an investigator at work in the State to secure information on which to base an investigation by the Senate of the deplorable condition which exists there. Several weeks ago we jointly called upon Mr. Howard McGrath, the Attorney General of the United States, and requested an investigation by the FBI of the sale of places under the jurisdiction of the FBI. Mr. McGrath promised his full cooperation and our information is that he has started such an investigation.

Mr. President, we have confidence in Howard McGrath, and we know that he will do his utmost. The FBI has no jurisdiction over the postal service, and we have also gone to the Postmaster General with reports of the sale of postmasterships and places as rural letter carrier in the State. Mr. Donaldson has assured us that he would investigate these matters.

The personnel of the Office of Price Stabilization is currently being set up in the State. Our information is that places as county director for this agency are being sold for a fixed fee of from three to four hundred dollars in each county.

Mr. President, I desire at this time to read an affidavit which I received from Pearl River County, Miss., a county not involved in the newspaper article which I have read to the Senate. The affidavit reads:

STATE OF MISSISSIPPI,

County of Pearl River:

Personally appeared before me, the undersigned authority in and for the above-mentioned county and State, W. Denny Russ, who stated on oath that he was approached on February 13, 1951, by R. F. Brashler, who gave his address as Brookhaven, Miss., phone 1608, who stated they were looking for a man to set up a ration board in Pearl River County and that he had been directed to see me for the position of supervisor, that I

House of Representatives

THURSDAY, FEBRUARY 22, 1951

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D. D., made the following statement before offering the prayer:

Mr. Speaker, we do not have the text of the first prayer offered on September 7, 1774, in the Continental Congress to which George Washington was a Delegate.

The prayer which I would like to use today is, however, the first of which we have any record in the history of that Congress. It was offered by the first Chaplain, the Reverend Jacob Duché, in July 1776, shortly after the signing of the Declaration of Independence.

Let us pray:

"O Lord our Heavenly Father, high and mighty King of Kings, Lord of Lords, who dost from Thy throne behold all the dwellers upon earth, and reignest with power supreme and uncontrolled over all kingdoms, empires, and governments—look down in mercy, we beseech Thee, upon these American States, who have fled to Thee from the rod of the oppressor and thrown themselves upon Thy gracious protection, desiring to be henceforth dependent only upon Thee. To Thee have they appealed for the righteousness of their cause. To Thee do they now look up for that countenance and support which Thou alone canst give. Take them, therefore, Heavenly Father, under Thy nurturing care. Give them wisdom in counsel and valor in the field. Defeat the malicious designs of our cruel adversaries. Convince them of the unrighteousness of their cause, and if they still persist in their sanguinary purposes, O let the voice of Thine own unerring justice, sounding in their hearts, constrain them to drop their weapons of war from their unnerved hands in the day of battle.

"Be Thou present, O Lord of wisdom, and direct the councils of this honorable assembly. Enable them to settle things upon the best and surest foundation, that the scene of blood may speedily be closed; that order, harmony, and peace may effectually be restored, and truth and justice, religion and piety prevail and flourish amongst Thy people.

"Preserve the health of their bodies and the vigor of their minds. Shower down upon them and the millions they here represent such temporal blessings as Thou seest expedient for them in this world, and crown them with everlasting glory in the world to come. All this we ask in the name and through the merits of Jesus Christ, Thy Son, our Saviour. Amen."

THE JOURNAL

The Journal of the proceedings of Tuesday, February 20, 1951, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Woodruff, its enrolling clerk, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 1724. An act to provide for the renegotiation of contracts, and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GEORGE, Mr. CONNALLY, Mr. BYRD, Mr. JOHNSON of Colorado, Mr. MILLIKIN, Mr. TAFT, and Mr. BUTLER of Nebraska to be the conferees on the part of the Senate.

The message also announced that the Vice President has appointed Mr. JOHNSTON of South Carolina and Mr. LANGER members of the joint select committee on the part of the Senate, as provided for in the act of August 5, 1939, entitled "An act to provide for the disposition of certain records of the United States Government" for the disposition of executive papers referred to in the report of the Archivist of the United States numbered 51-14.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 59. An act for the relief of Vernon Crudge.

RENEGOTIATION ACT OF 1951

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. DOUGHTON, COOPER, DINGELL, MILLS, REED of New York, JENKINS, and SIMPSON of Pennsylvania.

ADJOURNMENT OVER

Mr. PRIEST. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

GEORGE WASHINGTON'S FAREWELL ADDRESS

The SPEAKER. Pursuant to the order of the House of February 12, 1951, the Chair recognizes the gentleman from Indiana [Mr. ADAIR] to read George Washington's Farewell Address.

Mr. ADAIR read the Farewell Address, as follows:

To the people of the United States:

FRIENDS AND FELLOW CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those, out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken, without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest; no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in the office to which your suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust, were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government, the best exertions of which a very fallible judgment was capable. Not unconscious in the outset, of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and, every day, the increasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is to terminate the career of my political life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country, for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by service faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that under circumstances in which the passions, agitated in every direction, were liable to mislead amidst appearances sometimes dubious, vicissitudes of fortune often discouraging—in situations in which not unfrequently, want of success has countenanced the spirit of criticism—the constancy of your support was the essential prop of the efforts, and a guarantee of the plans, by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave, as a strong incitement to unceasing vows that heaven may continue to you the choicest tokens of its beneficence—that your union and brotherly affection may be perpetual—that the free constitution, which is the work of your hands, may be sacredly maintained—that its administration in every department may be stamped with wisdom and virtue—that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation, and so prudent a use of this blessing, as will acquire to them the glory of recommending it to the applause, the affection and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me

all important to the permanency of your felicity as a people. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence; the support of your tranquillity at home; your peace abroad; of your safety; of your prosperity; of that very liberty which you so highly prize. But as it is easy to foresee that, from different causes and from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth, as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed; it is of infinite moment, that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth, or choice, of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess, are the work of joint counsels, and joint efforts, of common dangers, suffering and successes.

But these considerations, however powerfully they addressed themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest.—Here, every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

The *north*, in an unrestrained intercourse with the *south*, protected by the equal laws of a common government, finds in the productions of the latter, great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry.—

The *south* in the same intercourse, benefiting by the same agency of the *north*, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the *north*, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength, to which itself is unequally adapted. The *east*, in a like intercourse with the *west*, already finds, and in the progressive improvement of interior communications by land and water, will more and more find a valuable vent for the commodities which it brings from abroad, or manufactures at home. The *west* derives from the *east* supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions, to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as *one nation*. Any other tenure by which the *west* can hold this essential advantage, whether derived from its own separate strength; or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts, greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value, they must derive from union, an exemption from those broils and wars between themselves, which so frequently afflict neighboring countries not tied together by the same government; which their own rivalry alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues, would stimulate and embitter. Hence likewise, they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind and exhibit the continuance of the union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated

DEFENSE REORGANIZATION—AID TO INDIA

Committee on Rules: Completed open hearings at consideration of a rule for H. R. 1545, to amend the Reorganization Act of 1940 by adding a new title III, entitled "Defense Reorganization Act of 1951." Representatives Dawson and Holifield were heard in favor of the rule, while Representative Hoffman of Michigan spoke against it. This bill will be further considered in executive session tomorrow morning.

Also commenced hearings on a rule for H. R. 3017, India Emergency Food Aid Act of 1951. The following members of the Committee on Foreign Affairs were heard in favor of the rule: Representatives Richards (acting chairman), Chatham, Morgan, Herter, Javits, and Judd. Open hearings on this rule will be continued tomorrow morning, and, if possible, a rule for H. R. 2988, the defense housing bill, will be considered.

TAX REVISION

Committee on Ways and Means: Heard testimony of the witnesses at today's hearings on tax revision, all of whom discussed the subject of depletion allowances on oil. The general substance of the testimony was in regard to the national oil supply, the question of an additional reserve cushion for defense, and the fact that the present safety margin is too short. The following testified: Lt. Gen. Ernest O. Thompson, Texas railroad commissioner, Austin, Tex.; R. B. Anderson, chairman, Texas State Board of Education; Glenn E. Nielson, president, Husky Oil Co., Cody, Wyo., also representing Rocky Mountain Oil and Gas Association; B. M. Heath, Independent Oil Producers and Land Owners Associa-

tion, Tri-State (Illinois, Indiana, and Kentucky); Russell B. Brown, general counsel, Independent Petroleum Association of America; Sydney A. Swensrud, president, Gulf Oil Corp.; Arthur Simmons, president, National Stripper Well Association; Wesley E. Disney, counsel, Independent Natural Gas Association; W. H. Geis, Western Oil and Gas Association, Los Angeles, Calif.; Knight Thornton, New York State Oil Producers Association, Wellsville, N. Y.; Charlton Lyons, Shreveport, La.; O. C. Bailey, chairman, Arkansas Oil and Gas Commission, El Dorado, Ark.; and James Upham, president, Ohio Oil and Gas Association. W. R. Wayland, Greater Arizona, Inc., Phoenix, Ariz., filed a statement for the record.

Hearings will be continued tomorrow on excise taxes (general).

CHEMICALS IN FOOD

Select Committee To Investigate the Use of Chemicals in Food Products: Held executive organizational meeting and announced that the future schedule of hearings to be conducted by the group will be made available at a later date.

Joint Committee Meetings**CONTRACT RENEGOTIATION**

Conferees reached final agreement to file conference report on the differences between the House- and Senate-passed versions of H. R. 1724, to provide for the renegotiation of contracts. The report will be filed tomorrow.

**COMMITTEE MEETINGS FOR WEDNESDAY,
MARCH 7**

(All meetings are open unless otherwise designated)

Senate

Committee on Agriculture and Forestry, executive, on S. 742, peanut marketing quotas, 10:30 a. m., 324 Senate Office Building.

Committee on Appropriations, subcommittee, executive, on FBI appropriations, 10 a. m., room F-82, Capitol.

Committee on Banking and Currency, RFC Subcommittee, executive, 10 a. m., 301 Senate Office Building; executive, on S. 349, defense housing, 2 p. m., room P-38, Capitol.

Committee on Finance, on H. R. 1612, reciprocal trade agreements, 10 a. m., 312 Senate Office Building.

Committees on Foreign Relations and Armed Services, executive, on S. Res. 8, troops to Europe, 10 a. m., room F-53, Capitol.

Committee on Interior and Insular Affairs, on U. S. fuel reserves, 10 a. m., 318 Senate Office Building.

Committee on Interstate and Foreign Commerce, on nomination of Chan Gurney to be a member of the CAB, 10 a. m., room G-16, Capitol.

Committee on the Judiciary, Immigration Subcommittee, on S. 716 and H. R. 2379, to revise immigration laws, 10:30 a. m. and 2 p. m., room P-36, Capitol; subcommittee, on S. 313, claims, S. 25, bankruptcy, S. 26, secret service, S. 459, use of influence, S. 668 and 93, private, 10:30 a. m., 424 Senate Office Building.

Committee on Labor and Public Welfare, subcommittee, executive, on veterans' medical care, 10:30 a. m., 155 Senate Office Building; full committee, on current dispute between railway carriers and railroad operating brotherhoods, 10 a. m., old Supreme Court chamber, Capitol.

Committee on Post Office and Civil Service, subcommittee, on S. 354 and 622, Federal-pay and overtime-pay bills, 9:30 a. m., 135 Senate Office Building.

Committee on Public Works, executive, on S. 218, Federal dispersal bill, 10 a. m., 412 Senate Office Building.

Committee on Rules and Administration, subcommittee, on Maryland senatorial election, 10 a. m., 457 Senate Office Building.

Select Committee on Small Business, subcommittee, on industrial manpower, 10 a. m., 104 Senate Office Building.

House

Committee on Armed Services, on H. R. 2811, the new bill on utilization of manpower resources for military training and service. Opposition witnesses are scheduled to testify, 10 a. m., 313-A Old House Office Building.

Clemente subcommittee, investigating defense requests for additional office space, 10 a. m., 304 Old House Office Building.

Committee on the District of Columbia, on H. R. 1759, to require the taking and destruction of dangerous weapons in certain cases. Also on H. R. 2611, daylight-saving time, and H. J. Res. 173, to amend and extend the provisions of the Emergency Rent Act, executive, 10:30 a. m., 445 Old House Office Building.

Committee on Interior and Insular Affairs, on H. R. 1500, central Arizona project, 10 a. m., 1324 New House Office Building.

Committee on the Judiciary, Celler Subcommittee on Monopoly, to receive report of Federal Trade Commission on interlocking directorates. James M. Mead, Chairman, Federal Trade Commission, and Dr. Corwin Edwards are scheduled to testify, 10 a. m., 346 Old House Office Building.

Byrne Subcommittee No. 2, on private claim bills, executive, 10 a. m., 327 Old House Office Building.

Lane Subcommittee No. 4, on H. R. 2947, to facilitate the financing of defense contracts by banks and other financing institutions by amending the Assignment Claims Act of 1940, 2 p. m., 346 Old House Office Building.

Committee on Post Office and Civil Service, until completed, on H. R. 2982, relating to readjustment of postal rates. Postmaster General Donaldson will continue his testimony, 10 a. m., 213 Old House Office Building.

Committee on Public Works, on H. J. Res. 3 and similar bills relating to development of the Great Lakes-St. Lawrence seaway area. Members of Congress are scheduled to testify, 10 a. m., 1302 New House Office Building.

Committee on Rules, to consider rules on H. R. 3017, India Emergency Food Aid Act of 1951, and H. R. 1545, to amend the Reorganization Act of 1940 by adding a new title III, entitled Defense Reorganization Act of 1951, 10:30 a. m., room G-12, Capitol.

Committee on Ways and Means, revenue revision legislation (excise taxes, general), 10 a. m., 1102 New House Office Building.

Joint Committees

Joint Committee on Atomic Energy, executive, on budget, with members of AEC and budget officers, 2:30 p. m., room F-39, Capitol.

Joint Committee on the Library, executive, on calendar, 3 p. m., room G-53, Capitol.

82D CONGRESS	}	HOUSE OF REPRESENTATIVES	{	REPORT
1st Session	}		{	No. 213

RENEGOTIATION ACT OF 1951

MARCH 7, 1951.—Ordered to be printed

Mr. DOUGHTON, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H. R. 1724]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 52, 63, 72, 73, 74, 75, 76, 77, 79, 80, 81, 82, 83, 84, 85, 86, and 87.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 6, 7, 8, 9, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 44, 51, 53, 54, 55, 56, 59, 60, 62, 65, 66, 67, 68, 69, 70, 71, and 78, and agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows:

On page 1 of the Senate engrossed amendments insert, after line 13, the following: *This subsection shall have no application in the case of contracts, or related subcontracts, which, but for subsection (c), would be subject to the Renegotiation Act of 1948.*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows:

On page 2 of the Senate engrossed amendments, lines 4 and 5, strike out the following: "and attributable to performance after June 30, 1950,"; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *the Reconstruction Finance Corporation, the Canal Zone Government, the Panama Canal Company, the Housing and Home Finance Agency*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *the Board of Directors of the Reconstruction Finance Corporation, the Governor of the Canal Zone, the president of the Panama Canal Company, the Housing and Home Finance Administrator*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows:

Omit the matter proposed to be inserted by the Senate amendment, and on page 6 of the House engrossed bill, line 11, strike out "Such costs" and insert in lieu thereof the following: *Notwithstanding any other provision of this section, there shall be allowed as an item of cost in any fiscal year, subject to regulations of the Board, an amount equal to the excess, if any, of costs (computed without the application of this sentence) paid or incurred in the preceding fiscal year with respect to receipts or accruals subject to the provisions of this title over the amount of receipts or accruals subject to the provisions of this title which were received or accrued in such preceding fiscal year, but only to the extent that such excess did not result from gross inefficiency of the contractor or subcontractor. For the purposes of the preceding sentence, the term "preceding fiscal year" does not include any fiscal year ending prior to January 1, 1951. Costs*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *Renegotiation shall be conducted on a consolidated basis with a parent and its subsidiary corporations which constitute an affiliated group under section 141 (d) of the Internal Revenue Code if all of the corporations included in such affiliated group request renegotiation on such basis and consent to such regulations as the Board shall prescribe with respect to (1) the determination and elimination of excessive profits of such affiliated group, and (2) the determination of the amount of the excessive profits of such affiliated group allocable, for the purposes of section 3806 of the Internal Revenue Code, to each corporation included in such affiliated group*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: , *except that no interest shall accrue or be payable on such lesser amount if such lesser amount is not in excess of an amount which the contractor or subcontractor tendered in payment prior to the issuance of the order of the Board*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and, on page 18, line 12, of the House engrossed bill, strike out all after "RECOVERIES.—" down to and including "Treasury.", in line 24, and insert the following: *All money recovered by way of repayment or suit under this subsection shall be covered into the Treasury as miscellaneous receipts. Upon the withholding of any amount of excessive profits or the crediting of any amount of excessive profits against amounts otherwise due a contractor from appropriations from the Treasury, the Secretary shall certify the amount thereof to the Treasury and the appropriations of his Department shall be reduced by an amount equal to the amount so withheld or credited. The amount of such reductions shall be transferred to the surplus fund of the Treasury.*; and the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *\$250,000*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *\$250,000*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *\$250,000*; and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and insert in lieu thereof the following: *In computing the*

aggregate of the amounts received or accrued during any fiscal year for the purposes of paragraphs (1) and (2) of this subsection, there shall be eliminated all amounts received or accrued by a contractor or subcontractor from all persons under control of or controlling or under common control with the contractor or subcontractor and all amounts received or accrued by each such person from such contractor or subcontractor and from each other such person.; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *\$250,000*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with the following amendments:

On page 8, line 16, of the Senate engrossed amendments, strike out "*\$500,000*" and insert the following: *\$250,000*

On page 8, line 17, of the Senate engrossed amendments, strike out "*\$500,000*" and insert the following: *\$250,000*

And the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(5) any contract or subcontract with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code, but only if the income from such contract or subcontract is not includible under section 422 of such code in computing the unrelated business net income of such organization; or

And the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(6) any contract which the Board determines does not have a direct and immediate connection with the national defense. The Board shall prescribe regulations designating those classes and types of contracts which shall be exempt under this paragraph; and the Board shall, in accordance with regulations prescribed by it, exempt any individual contract not falling within any such class or type if it determines that such contract does not have a direct and immediate connection with the national defense. Notwithstanding section 108 of this title, regulations prescribed by the Board under this paragraph, and any determination of the Board that a contract is or is not exempt under this paragraph, shall not be reviewed or redetermined by the Tax Court or by any other court or agency; or

And the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with the following amendments:

On page 12 of the Senate engrossed amendments, line 12, strike out "from subcontracts for" and insert in lieu thereof the following: (*other than rents*) *from subcontracts for new*

On page 12 of the Senate engrossed amendments, line 24, insert after "product" the following: *acquired by any agency of the Government under a contract with a Department*

On page 13 of the Senate engrossed amendments, line 3, insert after "for" the following: *new*

And the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with the following amendments:

On page 14, line 1, of the Senate engrossed amendments, insert after "person" the following: *from civilian life*

On page 14, line 2, insert after "Board." the following: *The President shall, at the time of appointment, designate one member to serve as Chairman.*

And the Senate agree to the same.

R. L. DOUGHTON,
JERE COOPER,
JOHN D. DINGELL,
W. D. MILLS,
DANIEL A. REED,
THOMAS A. JENKINS,
RICHARD M. SIMPSON,

Managers on the Part of the House.

WALTER F. GEORGE,
HARRY F. BYRD,
EDWIN C. JOHNSON,
E. D. MILLIKIN,
ROBERT A. TAFT,
HUGH BUTLER,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendments Nos. 1 and 2: The House bill, in general, applied to all contracts with the Departments named in the bill and to all contracts with agencies designated by the President as Departments. Under Senate amendments Nos. 1 and 2, only contracts having a direct and immediate connection with the national defense would be subject to renegotiation. The Senate recedes on these two amendments in view of the conference agreement with respect to amendment No. 58. Under amendment No. 58, as agreed to in conference, contracts which the Board determines do not have a direct and immediate connection with the national defense are exempt from renegotiation.

Amendments Nos. 3 and 5: The House bill provided that the Renegotiation Act of 1948 should not apply with respect to any receipts on accruals subject to renegotiation under the House bill. Senate amendment No. 3 struck out this provision of the House bill, but Senate amendment No. 5 reinserted a similar provision under which the Renegotiation Act of 1948 would not be applicable to amounts received or accrued on or after January 1, 1951, and attributable to performance after June 30, 1950. The House recedes on Senate amendment No. 3 and recedes on Senate amendment No. 5 with an amendment making the Renegotiation Act of 1948 inapplicable to all amounts received or accrued on or after January 1, 1951.

Amendment No. 4: This amendment inserted a new provision the effect of which was to limit the application of the bill to amounts received or accrued after January 1, 1951, which are attributable to performance after June 30, 1950. The House recedes with an amendment under which amounts received or accrued after January 1, 1951, and attributable to performance before July 1, 1950, will be subject to renegotiation under the bill if (but for amendment No. 5) such amounts would be subject to the Renegotiation Act of 1948.

Amendment No. 6: This is a clerical amendment. The House recedes.

Amendments Nos. 7, 8, and 9: The House bill provided that the profit-limitation provisions of the act of March 27, 1934, as amended and supplemented (the Vinson-Trammell Act), shall not apply to any contract or subcontract if any of the receipts or accruals therefrom are subject to the bill. Under Senate amendments Nos. 7, 8, and 9 the profit-limitation provisions of section 505 (b) of the Merchant Marine Act, 1936, as amended and supplemented, shall not apply to any contract or subcontract entered into after December 31, 1950,

if any of the receipts or accruals therefrom are subject to the bill. The House recedes.

Amendment No. 10: The Senate amendment added the Reconstruction Finance Corporation, Panama Canal, and the Housing and Home Finance Agency, with respect to construction undertaken by it, to the list of Government agencies included within the definition of the term "Department". The conference agreement makes the Housing and Home Finance Agency a Department without qualification and includes the Canal Zone government and the Panama Canal Company as Departments rather than the "Panama Canal". It is to be noted, however, that under amendment No. 58, as agreed to in conference, contracts determined by the Board not to have a direct and immediate connection with national defense are not subject to renegotiation.

Amendment No. 11: The House bill provided that the President could designate any agency of the Government exercising functions in connection with the national defense as a Department. This amendment provides that the President may designate as Departments only agencies exercising functions having a direct and immediate connection with the national defense. The House recedes.

Amendment No. 12: This amendment would add the heads of the agencies designated as Departments under amendment No. 10 to the definition of "Secretary" in the House bill. The House recedes with a technical amendment.

Amendments Nos. 13 and 14: These are clarifying amendments with respect to the provision in the House bill that one of the factors to be considered in determining excessive profits is the efficiency of the contractor. The House recedes.

Amendments Nos. 15 and 16: These are clerical amendments. The House recedes.

Amendment No. 17: The House bill provided that in determining excessive profits consideration should be given to the reasonableness of return on net worth. This amendment provides that consideration shall be given to the net worth. The House recedes.

Amendments Nos. 18, 19, 20, and 21: These are clerical amendments. The House recedes.

Amendment No. 22: The Senate amendment provides that losses on renegotiable business sustained in one year shall be allowed as an item of cost in the next year. The House recedes with an amendment which provides that such losses may be so allowed only to the extent that the losses are not attributable to gross inefficiency of the contractor or subcontractor. The amendment also makes it clear that under no circumstances shall losses be allowed as an item of cost in any year after the first year following the year in which the loss occurred and that no loss shall be carried forward from any fiscal year ending prior to January 1, 1951.

Amendments Nos. 23, 24, and 25: These are technical amendments. The House recedes.

Amendment No. 26: The House bill provided that no item of cost shall be charged to contracts with the Departments or subcontracts or used in any manner for determining such costs to the extent that, in the opinion of the Board or the Tax Court, as the case may be, such item is unreasonable or not properly chargeable to such contracts or subcontracts. The Senate amendment strikes out this provision as superfluous. The House recedes.

Amendment No. 27: This amendment provides that no purchase order or agreement to furnish office supplies shall be included in the term "subcontract" as defined in the bill. The House recedes.

Amendment No. 28: The House bill provided that in the case of a partnership the term "fiscal year" means such period as the Board by regulations may prescribe. The Senate amendment provides that in the case of a partnership the term "fiscal year" means its taxable year under chapter 1 of the Internal Revenue Code except that where a readjustment of interests occurs in the partnership its fiscal year shall be determined in accordance with regulations of the Board. The House recedes.

Amendment No. 29: This is a clarifying amendment changing the word "books" to "records". The House recedes.

Amendment No. 30: This amendment provides that corporations constituting an affiliated group under section 141 (d) of the Internal Revenue Code shall be renegotiated on a consolidated basis if all the corporations in the group request the consolidation and consent to such regulations as the Board may prescribe with respect to the determination and elimination of excessive profits of the group. The House recedes with an amendment making it clear that the Board may, under regulations, determine the amount of the excessive profits of the group allocable, for the purposes of section 3806 of the Internal Revenue Code, to each corporation included in the group.

Amendments Nos. 31 and 34: The House bill provided that the rate of interest to be paid on excessive profits due to the Government shall be 6 percent. These amendments fix the rate at 4 percent. The House recedes.

Amendments Nos. 32 and 33: The House bill provided that interest on excessive profits due the Government should accrue from the date fixed for repayment by the order of the Board or the agreement, as the case may be. The Senate amendments provide that in the case of excessive profits determined by order, interest shall accrue from the thirtieth day after the date of the order of the Board. The House recedes.

Amendments Nos. 35, 36, and 37: These are conforming amendments necessitated by amendment No. 32. The House recedes.

Amendment No. 38: The Senate amendment provides that where the amount of excessive profits determined by the Tax Court is less than the amount determined by the Board, no interest shall accrue or be payable on the lesser amount if the lesser amount is not in excess of an amount which the contractor or subcontractor tendered in payment prior to the filing of the petition with the Tax Court. The House recedes with an amendment providing that payment of the lesser amount must be tendered prior to the issuance of the order of the Board in order to avoid the accrual of interest.

Amendment No. 39: The Senate amendment provides that in any case where there has not been a final determination by the Tax Court within 3 years after the filing of a petition, no interest shall accrue after such 3-year period. The House recedes.

Amendment No. 40: This amendment adds a provision to the House bill that nothing in this act shall be construed to authorize any Department or agency of the Government (a) except as provided in the Assignment of Claims Act of 1940, as now or hereafter amended, to withhold or recover from any bank, trust company or other financ-

ing institution (including any Federal lending agency) which is an assignee under any contract with a Department, any moneys due or to become due or paid to any such assignee under such contract, or (b) to direct the withholding or to recover, pursuant to this act, from any such financing institution which is an assignee under any subcontract, any moneys due or to become due or paid to any such assignee under such subcontract.

There was no corresponding provision in the House bill. The House recedes.

Amendments Nos. 41 and 42: These are clerical amendments. The House recedes.

Amendment No. 43: The House bill provided that all money recovered in respect of amounts paid a contractor from corporate or other revolving funds (other than appropriations from the Treasury) should be restored to such funds. Senate amendment No. 43 strikes out this provision. The House recedes with a clarifying amendment. Under the conference agreement, all excessive profits recovered by way of repayment or suit from a contractor or subcontractor shall be paid into the Treasury as miscellaneous receipts without regard to the source of such funds. Any amount withheld from or credited against amounts otherwise due a contractor from corporate or other revolving funds (other than appropriations from the Treasury) in order to eliminate excessive profits arising from contracts obligating such funds, remains in such corporate or other revolving funds. Any amount withheld from or credited against amounts otherwise due a contractor from appropriations from the Treasury are transferred to the surplus fund of the Treasury.

Amendment No. 44: This is a clerical amendment. The House recedes.

Amendment No. 45: The House bill provided in section 105 (f) that if the aggregate of the amounts received or accrued during a fiscal year by a contractor or subcontractor, and all persons under control of or controlling or under common control with the contractor or subcontractor, under contracts with the Departments and subcontracts described in section 103 (g) (1) and (2) is not more than \$100,000, such receipts or accruals shall not be renegotiated. The Senate amendment raised this amount to \$500,000. The House recedes with an amendment making the amount \$250,000.

Amendment No. 46: The House bill provided in section 105 (f) that if the aggregate of the amounts received or accrued during the fiscal year under contracts and subcontracts is more than \$100,000, no determination of excessive profits to be eliminated for such year with respect to such contracts and subcontracts shall be in an amount greater than the amount by which such aggregate exceeds \$100,000. The Senate amendment raised this amount to \$500,000. The House recedes with an amendment, in conformity with the action of the conferees on amendment No. 45, making the amount \$250,000.

Amendments Nos. 47, 49, and 50: These are conforming amendments necessitated by Senate amendments Nos. 45 and 46, raising the \$100,000 amount contained in the House bill to \$500,000. The House recedes with conforming amendments making this amount \$250,000.

Amendment No. 48: The House bill provided in section 105 (f) (3) that in computing the aggregate of the amounts received or accrued during any fiscal year for the purposes of paragraphs (1) and (2) of

subsection (f), such computation shall be made without elimination of intercompany sales. The Senate amendment strikes out this provision.

The House recedes with an amendment which provides affirmatively that such computation shall be made after the elimination of intercompany sales.

Amendments Nos. 51, 53, 54, and 55: The House bill exempted from renegotiation any contract or subcontract for (1) an agricultural commodity in its raw or natural state (or in the first form or state beyond the raw or natural state in which it is customarily sold or has an established market, if it is not customarily sold or has no established market in its raw or natural state), if such contract or subcontract is with the producer of such agricultural commodity; (2) for the product of a mine, oil or gas well, or other mineral or natural deposit which has not been processed, refined, or treated beyond the ordinary treatment processes normally applied by the producers in order to obtain the first commercially marketable product, if the contract or subcontract is with the owner or operator of the mine, well, or deposit; and (3) timber which has not been processed beyond the form of logs, if such contract or subcontract is with the owner of the timber property or the producer of the logs.

The effect of Senate amendments Nos. 51, 53, 54, and 55 is to modify the language in which these exemptions from renegotiation are set forth so as to express the exemptions in the exact language contained in the World War II renegotiation law. The House recedes.

Amendment No. 52: The House bill provided that the term "agricultural commodity" should include, *inter alia*, animals and the produce of live animals, such as wool. Senate amendment No. 52 expanded upon the term "wool" so as to include wool in the grease and scoured wool. The Senate recedes.

Amendment No. 56: This amendment adds to the list of contracts and subcontracts which the House bill exempted from renegotiation any contract or subcontract with a common carrier for transportation, or with a public utility for gas, electric energy, water, communications, or transportation, (1) when such contract or subcontract is made at rates which are not in excess of rates filed with, established, approved, or regulated by a Federal, State, or local public regulatory body, or (2) when made at rates not in excess of unregulated rates of such a public utility if the regulated rates are substantially as favorable to consumers as are unregulated rates. In the case of transportation by common carrier by water, however, the exemption is applicable only if the furnishing or sale of such transportation is subject to the jurisdiction of the Interstate Commerce Commission under part III of the Interstate Commerce Act or the Federal Maritime Board under the Intercoastal Shipping Act, 1933.

There was no corresponding exemption in the House bill. The House recedes.

Amendment No. 57: This amendment adds to the list of contracts and subcontracts which the House bill exempted from renegotiation any contract or subcontract with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code, provided that the income from such contract or subcontract would not constitute "unrelated business income" within the meaning of section 422 of the Internal Revenue Code. The House recedes with a technical clarifying amendment.

Amendment No. 58: This amendment would have exempted from the provisions of the bill any contract with a Department awarded as a result of competitive bidding for the construction of any building, structure, improvement, or facility. The House bill contained no comparable provision. The House recedes with an amendment substituting, in lieu of the Senate provision, a mandatory exemption of any contract which the Renegotiation Board determines does not have a direct and immediate connection with the national defense. Under the conference agreement the Board is required to issue regulations designating those classes and types of contracts which shall be so exempt and is required, in accordance with regulations prescribed by it, to exempt any individual contract not falling within any such class or type if it determines that such contract does not have a direct and immediate connection with the national defense. Regulations prescribed by the Board under this provision, and any determination of the Board that a contract is or is not exempt under such provision, are not to be reviewed or redetermined by the Tax Court or by any other court or agency.

In administering this exemption the Board's determinations are not to be circumscribed by a narrow definition of the words "direct" and "immediate". The Board is not to determine that a contract does not have a direct and immediate connection with the national defense if the purpose of the contract is essential to the national defense, or is clearly connected with the national defense, irrespective of the fact that there may appear to be intervening mediums between the purposes of the contract and the ultimate national defense.

Amendment No. 59: This is a clerical amendment. The House recedes.

Amendment No. 60: The House bill provided for a cost allowance in renegotiation (1) for the producer of an agricultural commodity; (2) for the producer of the product of a mine, oil or gas well, or other mineral or natural deposit; and (3) for the producer of timber; when such producer has processed, refined, or treated such commodity, product, or timber beyond the exempted state provided in section 106 (a) (2), (3), and (4) of the House bill. The Senate amendment, which is identical with the cost allowance for integrated producers contained in the World War II renegotiation law, brings this cost provision into conformity with the expanded exemption of these materials effected by Senate amendments Nos. 51, 53, 54 and 55. The House recedes.

Amendment No. 61: This amendment provides that in the case of any subcontract for durable productive equipment, not purchased for the account of the United States, renegotiation shall apply only to that fraction of the receipts or accruals from such subcontract which 5 years is of the average useful life of such equipment. The term "durable productive equipment" does not include machinery, tools, or equipment having an average useful life of 5 years or less, or which becomes part of an end product or of an article incorporated in an end product.

The House recedes with clarifying amendments. These amendments make it clear that (1) the benefits of the provision do not apply to rents received or accrued under a lease of durable productive equipment; (2) the exemption does not apply in the case of the sale of second-hand durable productive equipment; and (3) the reference

to an end product is to an end product to be acquired by the Government under a contract with a Department.

Amendment No. 62: This is a clerical amendment. The House recedes.

Amendment No. 63: The House bill provided that the Board may grant permissive exemptions of contracts and subcontracts both individually and by general classes or types. The Senate amendment struck out the provision granting the Board power to exempt individual contracts and subcontracts and limited the Board to the granting of permissive exemptions of contracts and subcontracts by general classes or types only. The Senate récedes.

Amendment No. 64: The House bill provided for the creation of a Renegotiation Board to be composed of five members to be appointed by the President by and with the advice and consent of the Senate. Not less than three of the members were to be appointed from civilian life, and each member was to receive \$12,500 per annum. The Senate amendment struck out these provisions of the House bill and inserted similar provisions, the major differences being that the Secretaries of the Army, Navy, and Air Force, subject to the approval of the Secretary of Defense, and the Administrator of General Services shall each recommend to the President for his consideration one person to serve as a member of the Board and that the salary of the Chairman be at the rate of \$17,500 per annum and of the other members of the Board at the rate of \$15,000 per annum. The House recedes with an amendment requiring that the persons recommended to the President be from civilian life and with an amendment providing that the President, at the time of appointment, designate one member to serve as Chairman.

Amendment No. 65: The House bill provided that the principal office of the Board shall be at such place as may be determined from time to time by the Board. The Senate amendment provides that the principal office of the Board shall be in the District of Columbia. The House recedes.

Amendment Nos. 66 and 67: The House bill authorized the Board, subject to the civil-service laws, to employ personnel. Senate amendments Nos. 66 and 67 authorize the Board to employ personnel without regard to the civil-service laws and regulations. The House recedes.

Amendment No. 68: This amendment provides that the Board may not delegate its power to grant permissive exemptions under section 106 (d). The House recedes.

Amendment No. 69: This amendment provides that no function, power, or duty of the Board shall be delegated or redelegated to any person unless the Board has determined that such person (other than the Secretary of a Department) is responsible directly to the Board or to the person making such delegation or redelegation and is not engaged on behalf of any Department in the making of contracts for the procurement of supplies or services, or in the supervision of such activity. The amendment further provides that any such delegation or redelegation shall be revoked if the Board shall at any time thereafter determine that such delegatee (other than the Secretary of a Department) is not responsible directly to the Board or to the person making such delegation or redelegation or is engaged on behalf of any Department in the activity above described, or in the supervision of such activity. There was no corresponding provision in the House bill. The House recedes.

Amendment No. 70: The House bill provided that the filing of a petition with the Tax Court for a redetermination of excessive profits shall operate to stay the execution of the order of the Board directing the elimination of excessive profits if within 5 days after the filing of the petition the petitioner files with the Tax Court a good and sufficient bond. The Senate amendment extended from 5 to 10 days the period within which the bond may be filed. The House recedes.

Amendment No. 71: The House bill provided that the United States pay interest at the rate of 6 percent per annum on amounts collected by the United States under an order of the Renegotiation Board in excess of the amount found to be due under a determination of excessive profits by the Tax Court. The Senate amendment reduced the interest rate to 4 percent per annum. The House recedes.

Amendment No. 72: This amendment added a new section to the bill which would have required the Renegotiation Board to make a redetermination de novo of any proceedings under the World War II renegotiation law of any contract or subcontract in any case in which the amendment to section (a). (4) (B) of such law made by Senate amendment No. 79 is applicable. The House bill contained no comparable provision. The Senate recedes.

Amendments Nos. 73 to 77, inclusive: These are clerical amendments. The Senate recedes.

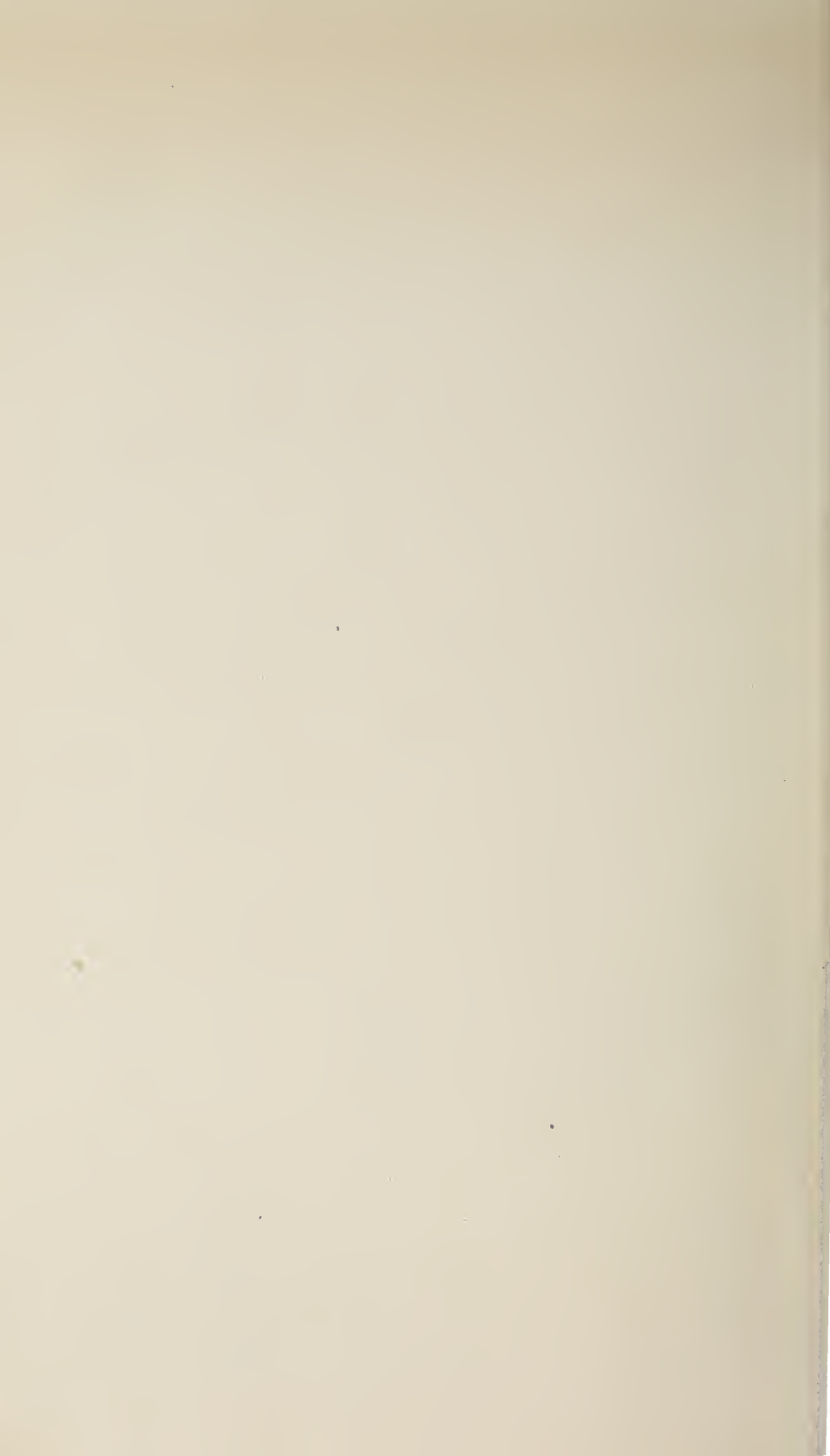
Amendment No. 78: The House bill contained a provision providing that nothing in title 18, United States Code, sections 281 and 283, or in section 190 of the Revised Statutes, shall be deemed to prevent any person by reason of service prior to January 1, 1954, in performance of duties or functions required by the bill, from acting as counsel, agent, or attorney for prosecuting any claim against the United States; provided such person shall not prosecute any claim against the United States (1) involving any subject matter directly connected with which such person was so employed, or (2) during the period such person is engaged in employment in a department or the Board. The Senate amendment struck out this provision and inserted a similar provision applicable with respect to service in a Department (as defined in the bill) or the Board. The House recedes.

Amendment No. 79: This amendment added to the bill a provision amending the World War II renegotiation law to require that there be allowed as an item of cost in any fiscal year any excess in the preceding fiscal year of costs paid or incurred with respect to receipts or accruals subject to the World War II renegotiation law over the amount of such receipts or accruals. The House bill contained no comparable provision. The Senate recedes.

Amendments Nos. 80 to 87, inclusive: These are clerical amendments. The Senate recedes.

R. L. DOUGHTON,
JERE COOPER,
JOHN D. DINGELL,
W. D. MILLS,
DANIEL A. REED,
THOMAS A. JENKINS,
RICHARD M. SIMPSON,

Managers on the Part of the House.



law in like cases for the Disbursing Officer, District of Columbia; and the deputy disbursing officer and each assistant disbursing officer shall give bond to the United States for the benefit of the United States, the District of Columbia, the Commissioners of the District of Columbia, and the Disbursing Officer, District of Columbia, conditioned for the faithful performance of the duties of each of their offices in the disbursing and accounting, according to law, for all moneys of the United States and of the District of Columbia that may come into his hands, which bond shall be in the amount required by the Commissioners of the District of Columbia, but to be not less than \$25,000, and to be subject to approval by the said Commissioners and the Secretary of the Treasury and to be filed in the office of the Secretary of the Treasury.

Sec. 4. There is hereby repealed so much of the first section of the act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1901, and for other purposes," approved June 6, 1900 (31 Stat. 555), under the subheading "For Auditor's Office" under the heading "General expenses" as reads: "deputy disbursing officer, who shall hereafter, in the absence of the Disbursing Officer, be authorized to transact all duties pertaining to said Disbursing Officer, and who shall be required to give bond to the said Disbursing Officer in the sum of \$25,000, conditioned on the faithful performance of the duties of his office, but said Disbursing Officer to be responsible to the United States, District of Columbia, and the people whom he pays, as now required by law, \$1,500;"

BILL PASSED OVER

The bill (S. 673) to permit the exchange of land belonging to the District of Columbia for land belonging to the abutting property owner or owners and for other purposes, was announced as next in order.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. SCHOEPEL. Mr. President, I should like to have the bill passed over for further study. I wish to say with reference to the bill that I should like to have it go over without prejudice to its being on the calendar at the next call of the calendar. There are some matters which by request, I should like to consider. I ask that my suggestion be considered as a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Kansas asks unanimous consent that though on objection the measure be passed over today, it shall appear on the calendar for consideration at the next call of the calendar. Is there objection?

Mr. HUNT. Will the Senator from Kansas withhold his objection until I can make a brief explanation of the bill?

Mr. SCHOEPEL. I shall be glad to withhold the objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request made by the Senator from Kansas?

Mr. HILL. Mr. President, may we have the explanation as suggested by the Senator from Wyoming [Mr. HUNT]?

The PRESIDING OFFICER. Does the Senator from Kansas withdraw his request?

Mr. SCHOEPEL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHOEPEL. What was the inquiry?

The PRESIDING OFFICER. The Senator from Kansas has asked unanimous consent that the bill, which will be passed over upon his objection, may appear upon the calendar for consideration at the next call of the calendar. The Chair asked if there was objection to that request.

Mr. HUNT. Mr. President, I do not wish to object to the unanimous-consent request, but I should like to make an explanation of the bill. It might clear up for the Senator from Kansas questions he may have in his mind.

Mr. SCHOEPEL. I shall be glad to withhold the request I made with reference to the bill appearing on the calendar for the next call of the calendar.

Mr. HUNT. Mr. President, in the District of Columbia there are many small pieces of unusually-shaped parcels of land owned by the District, which abut privately owned odd-shaped pieces of land. The bill simply gives the Commissioners the authority, when such situations exist, to make a trade so that the District may better block out its holdings and make more valuable pieces of land; and the same may be true with reference to the owners of the abutting land. It seems to be an arrangement that would be most agreeable to both the District and to those owning abutting land.

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. HUNT. I yield.

Mr. DIRKSEN. Is there any reason why there should not be a proviso that there be public notice published in one or more daily newspapers of the District? I believe the people are entitled to such notice.

Mr. HUNT. There is no provision for notices of any kind. I would have no objection to such an amendment, if the Senator from Illinois wishes to offer one.

Mr. DIRKSEN. At the appropriate time I shall submit an amendment providing for notification to be published 60 days prior to the time the proposal goes into effect.

Mr. HUNT. Now is the appropriate time, unless the Senator from Kansas desires that the bill be passed over.

The PRESIDING OFFICER. The Senator from Kansas withdrew his objection temporarily. Does the Senator from Kansas withdraw his objection at this time?

Mr. SCHOEPEL. Because of the absence of a Senator who raised objection to the bill I shall be compelled to make objection at this time, but I do not want to prejudice the rights of those interested in the measure to have it appear on the calendar to be considered at the next call of the calendar.

Mr. HILL. Mr. President, I hope the Senator from Kansas will not make such a request respecting placing the bill on the calendar for consideration at the next call. When consideration has been

had of all the bills on the calendar today it will be found that only a few will not have been passed. I know of no reason why we should not begin considering the bills on the calendar at the next call of the calendar commencing at the very beginning, but I should not like to have a precedent set by agreeing to such a proposal as the Senator from Kansas has made.

Mr. SCHOEPEL. Mr. President, I withdraw the request.

The PRESIDING OFFICER. Objection having been made, the bill is passed over.

LICENSES OF AMBULANCES AND PASSENGER VEHICLES USED EXCLUSIVELY FOR FUNERAL PURPOSES

The Senate proceeded to consider the bill (S. 261) to amend section 7 of an act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes," approved July 1, 1902, which had been reported from the Committee on District of Columbia with an amendment on page 2, line 13, after the word "year," to strike out "Provided, however, That licenses issued under this subparagraph prior to the approval of this Act shall remain valid until June 30, 1951, and the holders of such licenses, if otherwise qualified, shall be entitled to have issued to them upon expiration of such licenses new licenses to be prorated for the remainder of the license year beginning April 1, 1951" and insert "Provided, however, That licenses issued under this subparagraph for the license period expiring on June 30 of any year shall remain valid until such expiration date, and the holders of such licenses, if otherwise qualified, shall be entitled to have issued to them upon expiration of such licenses new licenses for the license year beginning April 1 to be prorated for the remainder of the license year," so as to make the bill read:

Be it enacted, etc., That section 7 of an Act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes", approved July 1, 1902, as amended, be further amended by deleting from subparagraphs (c) and (d) of paragraph 31 thereof the word and figures "March 15" where the said word and figures appear and inserting in lieu thereof the word and figure "March 1".

Sec. 2. That subparagraph (i) of paragraph 31 of section 7 of said Act, as amended, be amended to read as follows:

"(i) Owners of ambulances for hire and owners of passenger vehicles which, when used for hire, are used exclusively for funeral purposes shall pay a license tax of \$25 per annum for each such vehicle used in the conduct of their business. Licenses issued under this subparagraph shall date from April 1 in each year but may be issued on or after March 1 of each year: *Provided, however, That licenses issued under this subparagraph for the license period expiring on June 30 of any year shall remain valid until such expiration date, and the holder of such licenses, if otherwise qualified, shall be entitled to have issued to them upon expiration of such licenses new licenses for the license year beginning April 1 to be prorated for the remainder of the license year.*"

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

**COMPENSATION OF POLICE OFFICERS
FOR DUTY PERFORMED ON DAYS OFF—
BILL PASSED OVER**

The bill (S. 489) to provide compensation for duty voluntarily performed on their days off by officers and members of the Metropolitan Police Force, the United States Park Police, and the White House Police Force was announced as next in order.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. SCHOEPPEL. Mr. President, reserving the right to object, may we have an explanation of the bill?

Mr. HUNT. Mr. President, the purpose of the bill is to allow payments to members of the Metropolitan Police Force, the United States Park Police, and the White House Police Force, for work done on a sixth day in any week, where such services are required because of existing vacancies in authorized personnel strength.

Public Law 693, which was passed by the Eighty-first Congress, provides that officers and members of the above-mentioned police force shall be granted 2 days off in each 7 days. That is in addition to their annual and sick leave to which they are entitled by law. Funds have been appropriated to carry out this act, but at the present time there are vacancies in the personnel strength of these various forces, and the 5-day week has not yet been placed into effect. In other words, the police officers continue to work 6 days a week, for 5 days' pay, as the law now stands.

This bill simply provides that any officer who is directed by his superior officer to report on the sixth day will be paid for the sixth day. As the situation now stands, although the law directs that they shall work only 5 days, they are working 6 days, but are not receiving pay for the sixth day.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. CASE. Mr. President, at the request of a Senator who is unable to be present at this time, I object.

The PRESIDING OFFICER. Objection being heard, the bill goes over.

BILLS PLACED AT FOOT OF CALENDAR

Mr. HILL. Mr. President, there were two bills which were placed at the foot of the calendar, the first one because of the temporary absence of the Senator from Georgia [Mr. RUSSELL], and the next one because of the temporary absence of the Senator from Washington [Mr. CAIN]. I should like to have those bills go over with the understanding that if those Senators return to the Chamber during the afternoon and have no objection to the present consideration of those bills, they can be brought up for consideration, by unanimous consent.

The PRESIDING OFFICER. The Chair understands that the reference of the Senator from Alabama is to three bills which went to the foot of the calendar;

and the Chair further understands that the Senator from Alabama wishes to have the bills go over, with the understanding that they may be called up if the Senators for whom objection was made return to the Chamber. Is there objection?

Mr. CASE. Mr. President, reserving the right to object, let me ask the distinguished Senator whether he means to include the last bill on the calendar, Calendar No. 151, Senate bill 489, relating to the compensation of police officers.

Mr. HILL. No; I did not have that bill in mind, in that connection. The bills to which I refer are bills which were considered earlier in the calendar call.

The PRESIDING OFFICER. The Chair understands that the Senator from Alabama refers to three bills which were reached earlier in the call of the calendar. For the RECORD, the Chair will announce that the three measures referred to at this time are Senate bill 552, Calendar 64, and House bill 1090, Calendar No. 113, which are companion bills, and relate to extending the period for the admission of alien spouses and minor children of citizen members of the United States armed services; and Senate Joint Resolution 39, Calendar No. 120, to continue for a temporary period the provisions of the Housing and Rent Act of 1947, as amended.

Mr. HILL. That is correct.

RENEGOTIATION ACT OF 1951—CONFERENCE REPORT

Mr. GEORGE. Mr. President, I move that the Senate proceed to the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes, which I submitted on the 7th instant.

(For conference report see proceedings of the House of Representatives, pp. 2177-2180, CONGRESSIONAL RECORD, of March 7, 1951.)

Mr. SCHOEPPEL. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. GEORGE. I yield for a parliamentary inquiry or for a question; but I wish to say that I have only 22 minutes available now, before I must return to a committee.

The PRESIDING OFFICER. The Senator from Kansas will state the parliamentary inquiry.

Mr. SCHOEPPEL. I merely wish to inquire as to the status of the unanimous-consent request in regard to the three measures which went to the foot of the calendar.

The PRESIDING OFFICER. As the Chair understands, unanimous consent was given for those three measures, or any of them, to be brought up later in the afternoon, after the return of the interested Senators.

Mr. SCHOEPPEL. I did not understand that, and I did not hear the Chair's ruling with regard to the unanimous-consent request. I wished to make a definite objection, insofar as the request pertains to Senate Joint Resolution 39, Calendar No. 120, relating to continuing for a temporary period the provisions of

the Housing and Rent Act of 1947, as amended.

The PRESIDING OFFICER. The Chair advises the Senator that objection can be made at the time that measure is called up; no waiver of any right to object is involved in this matter at all.

Mr. WHERRY. Mr. President, will the Senator from Georgia yield for a parliamentary inquiry?

Mr. GEORGE. I yield to the Senator from Nebraska for that purpose.

Mr. WHERRY. Mr. President, if objection is made to the consideration at this time of Senate Joint Resolution 39, Calendar No. 120, is not that a permanent objection? Does not that remove the joint resolution from the scope of any unanimous-consent request in regard to the consideration of certain measures on the calendar at any time during the remainder of the day? Certainly objection was permanently made to the consideration of Senate Joint Resolution 39, Calendar No. 120, during the call of the consent calendar.

The PRESIDING OFFICER. The Chair did not understand that objection to be made when that measure was reached during the calendar call. The unanimous-consent request simply would allow that measure to be called up again, when the interested Senators are present; it does not take away from any Senator the right to object at that time.

Mr. WHERRY. I understand that; but if a permanent objection is going to be made against Senate Joint Resolution 39, Calendar No. 120, why does a Senator have to remain here during the remainder of the afternoon in order to repeat the objection?

The PRESIDING OFFICER. Does the Senator from Nebraska wish to ask unanimous consent that at this time the Senate return to Calendar No. 120, Senate Joint Resolution 39?

Mr. WHERRY. No; but it is perfectly agreeable to me to have that done, if the Senate wishes to have it done.

However, the distinguished Senator from Kansas said he wished to object to the consideration of Senate Joint Resolution 39, Calendar No. 120, in any event.

The PRESIDING OFFICER. The Chair thinks he understands the situation; and as he understands it, no such objection was made at the time when Senate Joint Resolution 39, Calendar No. 120, was reached during the call of the calendar. Without returning to that calendar number—

Mr. WHERRY. Very well, Mr. President; if that is the understanding, I do not wish to raise objection now. I certainly understand that under the unanimous-consent request, the objection could be made.

Mr. JOHNSTON of South Carolina. Mr. President, to expedite the matter, let me make a suggestion. What would hinder us from taking up that measure now, by unanimous consent; and then the Senator could object.

Mr. GEORGE. Mr. President, I am obliged to proceed with the conference report, because there is a committee hearing to which I must return.

The PRESIDING OFFICER. The question is on agreeing to the motion of

the Senator from Georgia that the Senate proceed to the consideration of the conference report on House bill 1724.

The motion was agreed to; and the Senate proceeded to consider the report.

Mr. GEORGE. Mr. President, for myself, I would be entirely content to place in the Record a statement regarding this matter; but in view of its importance, I shall briefly report upon what was done in the committee of conference.

The Senate added to the bill as passed by the House 87 amendments. Of the total, the House receded on 50 Senate amendments, and the Senate on 19. On the remaining 18, some of which were clerical, the House receded with amendments. I may say that many of the amendments were clerical or technical.

First. All of the Senate amendments relating to the exemption of agricultural products and minerals were agreed to by the House conferees, with the exception of the amendment relating to "scoured wool." The House conferees refused to agree to exempting scoured wool from renegotiation, arguing that the process of "scouring wool" was a step beyond the first form or state in which wool is customarily sold. It was pointed out that wool is customarily sold in the grease.

Second. The House conferees also agreed to the Senate amendment providing a mandatory exemption for common carriers by railroad and public utilities.

Third. Under the House version of the bill the contract or subcontract of a contractor or subcontractor may be renegotiated if he has received or accrued within the fiscal year more than \$100,000 in the aggregate from renegotiable contracts and subcontracts. The Senate version of the bill raised this limit to \$500,000. It will be recalled that I pointed out in the floor, at the time when the bill was under consideration, that it was hoped a compromise could be worked out with the House conferees on this point. Under the conference agreement the minimum is fixed at \$250,000.

Fourth. The House conferees agreed to the amendment of the Senate relating to long-lived industrial equipment, such as machinery, tools, and so forth, which does not become a part of an end product or an article incorporated therein. However, certain clarifying amendments were adopted to make it definite (a) that the benefits of the provision do not apply to rents received or accrued under a lease of durable productive equipment, (b) that the provision does not apply in the case of the sale of second-hand machinery, tools, and equipment, and that (c) the end product to which the machinery, tools, or equipment must not be a part is an end product to be acquired by the Government under a contract subject to renegotiation.

This amendment provides that the sale price of durable productive equipment sold by a subcontractor will be only partially renegotiated. The part subject to renegotiation is determined by a formula based upon the useful life of the equipment. This formula is to be applied to all such equipment, even though an item of such equipment may be incorporated as a component of another

item of such equipment. On the other hand, components or parts of durable productive equipment which do not themselves qualify as such equipment are not afforded the benefit of this formula.

Fifth. The Senate amendment taking away the power of the Board to grant permissive exemptions in the case of individual contracts was not agreed to by the House conferees. Since the Senate conferees were unable to work out a satisfactory compromise with the House group, we were forced to recede on this amendment.

Sixth. The amendment offered by the Senator from Arkansas [Mr. McCLELLAN] to limit renegotiation to contracts having a direct and immediate connection with the national defense was not agreed to by the House conferees. It was felt by the House conferees that there would be serious difficulty in defining a defense contract for this purpose, and that a great deal of confusion and delay might result if such a provision was contained in the law. However, we were able to work out with the House group a compromise which will help the situation. Under the compromise, "any contract which does not have a direct and immediate connection with the national defense" is placed in the mandatory exemption group. However, the Board is required to make a determination, in accordance with regulations, as to those classes of contracts and types of contracts which are exempt under this paragraph.

The Board is also required, in accordance with regulations prescribed by it, to exempt any individual contract not falling within any such type or class if it determines that such contract does not have a direct and immediate connection with the national defense. The determination of the Board as to whether or not the exemption applies cannot be redetermined by the Tax Court, or be reviewed or redetermined by any other court or agency.

We do not intend by this exemption to exclude from renegotiation those contracts which are clearly let as a part of the program for national defense. The words "which do not have a direct and immediate connection with the national defense" are not to be construed too narrowly. Thus, contracts for the construction of houses for defense workers let by the Housing and Home Finance Agency, which is one of the Departments named in the bill, would be subject to renegotiation, since such construction is a part of the program for national defense. It is our view that such a contract does have a direct and immediate connection with the national defense.

Seventh. We were not able to reach an agreement with the House conferees on Senate amendment 58, which provided a mandatory exemption from renegotiation in the case of a contract with a Department awarded as a result of competitive bidding for the construction of any building, structure, improvement, or facility. On the other hand, if the Board determines that such contracts do not have a direct and immediate connection with the national defense, they

will be exempt under the amendment I have previously discussed. Moreover, the Board will have authority to exempt such contracts under the permissive exemption section, if upon examination of the contract, pertinent facts, and data, the Board determines that there is no likelihood of excessive profits being involved.

Eighth. Another important Senate amendment relates to the composition of the Renegotiation Board. It will be recalled that the amendment I offered on the floor required a Board of five members to be appointed by the President and confirmed by the Senate. This was similar to the House provision, except that my amendment, which was adopted by the Senate, provided that each of the Secretaries of the Army, Navy, and Air Force, subject to the approval of the Secretary of Defense, and the Administrator of General Services, shall recommend to the President one member to serve as a member of the Board. Under the Senate amendment the salaries were increased from the \$12,500 figure under the House bill to \$17,500 for the Chairman, and \$15,000 for the other members. The House conferees agreed to the Senate amendment with an amendment requiring that those recommended to the Board must be from civilian life, and that the President shall designate a member to serve as Chairman.

Ninth. The Senate amendment providing a 1-year loss carry-over, with technical revisions, was agreed to by the House conferees, with an amendment to make it clear that the carry-over shall be permitted only to the extent that it did not result from gross inefficiency of the contractor or subcontractor. We were unable to get the House conferees to agree to the amendment offered by the distinguished Senator from Oregon [Mr. MORSE], which would have the effect of applying this provision to the old World War II law. It was believed by the House conferees that it would be unwise to reopen closed cases arising under the World War II legislation.

Tenth. Other amendments of the Senate were adopted by the House conferees, including some with technical or clarifying amendments. Among them was an amendment requiring renegotiation to be on a consolidated basis, if the affiliated group so elects, an amendment requiring the elimination of intercompany sales, amendments including among the departments or agencies named in the bill, whose contracts are subject to renegotiation, the Reconstruction Finance Corporation, the Canal Zone Government, the Panama Canal Company, and the Housing and Home Finance Agency. However, under the amendment previously discussed not all contracts with such named department, or related subcontracts, are subject to renegotiation. Those which the Board determines do not have a direct and immediate connection with the national defense would be excluded.

The House conferees also agreed to: The Senate amendments continuing the profit limitations of the Merchant Marine Act to contracts or subcontracts entered into prior to January 1, 1951,

but suspending such limitations with respect to contracts or subcontracts entered into after December 31, 1950, if the receipts or accruals therefrom are subject to the new act. The Senate amendment permitting the President to designate as departments, for purposes of renegotiation, only agencies having a direct and immediate connection with the national defense.

The Senate amendment requiring favorable recognition be given to efficiency in determining excessive profits was also agreed to by the House conferees.

The Senate amendment excluding from the definition of a subcontractor office supplies and limiting the power of the Board to define fiscal year in the case of a partnership.

Also, the Senate amendments relating to the collection of interest, the Senate amendment providing relief for assignee banks and other lending agencies, the Senate amendments requiring all excessive profits repaid to be covered into the Treasury as miscellaneous receipts, exempting from renegotiation contracts or subcontracts with educational, charitable, religious organizations, and so forth, where the income from such contracts or subcontracts is not unrelated business income. If it is related business income, such contracts are subject to renegotiation as in other cases.

While the Senate conferees were unable to secure agreement on some Senate amendments, the conference on the whole was a very satisfactory one. The House conferees made a real and sincere effort to compose their differences with the Senate conferees, so that an agreement could be reached on the bill promptly. Our work in the conference was altogether satisfactory to the Senate conferees, with the few exceptions I have noted in this brief statement.

Mr. CASE. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Dakota for a question?

Mr. GEORGE. I am glad to yield.

Mr. CASE. Did I correctly understand the distinguished chairman of the Finance Committee to say that the amendment which the Senate adopted, to provide that the Renegotiation Board might not delegate permissive exemptions to some other agency or group, was not accepted by the conferees?

Mr. GEORGE. No, it was accepted by the conferees.

Mr. CASE. It was accepted?

Mr. GEORGE. Yes.

Mr. CASE. I am happy to have that assurance.

Mr. GEORGE. Yes, positively, that was accepted by the conferees.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. BUTLER of Nebraska. Mr. President, I wish to speak very briefly on the conference report, before the distinguished Senator from Georgia leaves the Chamber. I know he is anxious to return to the Finance Committee meeting, where hearings are being conducted on the reciprocal trade bill; but this is a

very important bill, and if the Senator can remain for but a few moments, I may want to address one or two questions to him.

The Senator spoke of Senate amendment 51, providing for the exemption of agricultural products, with the exception of scoured wool, if I correctly remember his remarks. The bill itself I think merely says "wool," but the interpretation which was given by Mr. Roberts, the chairman of the committee, was that in practice the committee has considered the word as though it were "wool in the grease." So I am assuming that the bill will be administered the same as it was under the World War II powers act, omitting the word "scoured." I merely want to say in passing that I still think scoured wool is in the same category as many other agricultural products which are at least partially processed before they are in a condition for proper merchandising.

Mr. GEORGE. Mr. President, I may say to the distinguished Senator from Nebraska, who was, of course, a valued conferee on this bill, that the Board may construe "wool" as not including scoured wool, as it did under the World War II act, since we have used substantially the same language. I know of nothing that would require the board to make such a ruling. If facts were presented to the board which enabled it to take a different view it would be free to do so. The Senator is quite right that under the World War II Renegotiation Act the word "wool" appearing in the agricultural section was held to not go beyond wool in the grease.

Mr. BUTLER of Nebraska. That is correct. I agree with the Senator's interpretation, although I think it should have included the word "scoured."

Mr. President, I am pleased to note that the House receded in favor of Senate amendment No. 51. The House bill would have limited to the producers of agricultural commodities the mandatory exemption for contracts and subcontracts of agricultural commodities, either in their raw or natural state, or in the first form or state beyond the raw or natural state in which such products are customarily sold in an established market. The Senate amendment, which was adopted by the conference committee, makes the mandatory exemptions applicable to all contracts with the Government calling for agricultural commodities in the raw or natural state, or in the first form or state beyond the raw or natural state in which such products are customarily sold in an established market.

In Nebraska, as in most other States, the Government rarely ever makes a contract for agricultural products with the producer; neither do they make contracts for agricultural commodities in the natural or raw state. The Government contracts for milk and cream that has been taken into a dairy and pasteurized, chickens and turkeys that have been assembled into a central place where they are killed and the feathers and entrails removed, fruits and vegetables that are sorted, wrapped or packaged. A producer could not afford

to equip a plant for his own use to do these things. He must either join with others and organize a cooperative to do these things or he must sell his produce to some one equipped to handle the work. Ordinarily the market is so well established for pasteurized milk and cream, eviscerated raw poultry, packaged fruits and vegetables, that there is no occasion for renegotiation of contracts for such products. Of course when the raw character of these products are changed by processing, cooking, or canning, it is usually done in mass scale and under such circumstances as that the renegotiation provisions of this act should apply.

I am especially fearful of any effort that might be applied which would disturb the normal markets for agricultural commodities. I believe the Senate amendment as adopted by the conference committee is the best we could do under the circumstances to make this bill a practical measure for application to the unusual circumstances of the time.

Mr. President, there is another point about this bill that I want to touch on, and that is the problem of protecting contractors against unreasonable and arbitrary action by the Renegotiation Board. By this bill, we attempt to provide some protection to the Government in situations where it must contract under emergency conditions hurriedly and without sufficient information to insure that a contract is not exorbitant.

Nevertheless, the power we are giving to the administrators of this law is extremely broad, and it is subject to no adequate limitations. Thus, in properly protecting the Government, we are creating the probability that individual contractors may suffer injustice.

My office has frequently had complaints that renegotiation in the past has been conducted unevenly, even arbitrarily, and that excessive profits have been allowed to some and unfairly small profits to others similarly situated. I have no means of determining the precise truth of these complaints, since there are no precise standards against which to measure the individual case.

This fact alone is indicative, however. It means that there has been no check whatever upon arbitrariness by the administrators. This is wrong. The individual businessman should not be subjected to the caprice of administrative officers. It is repugnant to our most fundamental traditions of fairness. It is a regrettable departure from the way of life for which we stand.

Yet, I recognize, too, after the hours and days of work that the committee has spent on the problem, that the writing of rigid standards and safeguards into the legislation is not practicable.

Mr. President, at this point I wish to pay my respects and well-earned compliments to the chairman of the committee who handled the bill in conference on behalf of the Senate. He did a masterful job. He proceeded in a perfectly fair manner at all times. Except for his ability in conference I doubt that we would have gotten as good a bill as we have. However, we do face a dilemma

under the bill as passed. On the one hand, we deplore leaving the businessman at the whim of administrative officials. On the other hand, we recognize the need for some form of renegotiation in flagrant cases and the difficulty of imposing rigid legislative safeguards over its administration.

Mr. President, to solve this dilemma, I propose that there be created a body which can keep constant supervision over the administration of this act. It is my intention to join in the introduction of a resolution setting up a subcommittee of the Finance Committee, and perhaps including the Ways and Means Committee of the House, to scrutinize the day-to-day operation of this legislation and to see that unequal and arbitrary administration is exposed if and when it appears.

This subcommittee should be given full power to procure the information it needs for this purpose from the Government agencies involved. It should be prepared and empowered to make all necessary investigations and to be an effective watchdog over the application of these powers we have felt compelled to grant.

Moreover, I think it is highly important that this same committee exhaustively inquire into the charges that gross inequities existed in the administration of the World War II Act. It is intolerable that the companies whose productive efforts resulted in victory should have been paid upon an arbitrary and capricious basis. We have recently learned from the RFC investigations how political influence can be brought into the business life of the Nation. We should make every effort to find out whether it has done so in this field as well.

I believe the mere existence of such a body would do great good in preventing arbitrariness and caprice. And it can exercise a healthy influence to correct any such evils as may develop.

There is another specific problem in relation to the administration of the Renegotiation Act which I think should be mentioned at this time. Our committee heard with great sympathy the injustice that some companies suffered. These companies had profits in certain years which were later reduced by renegotiation. Subsequently they sustained severe losses, even to the extent of impairing their ability to pay the amount found refundable in prior years. I believe that we all agreed that it was only equitable that amounts found returnable to the Government should not be collected from companies which in attempting to further the war effort later incurred severe losses.

Mr. President, I should like to ask the chairman of the Committee on Finance to express his opinion as to the right and obligation of the Department of Justice to compromise any such cases on a reasonable and just basis. Perhaps before giving his answer I should say that if the Department of Justice does not see fit to do equity in such a case, where profits of a company found subject to renegotiation have been subsequently dissipated by losses incurred without fault in a good-faith attempt to further the de-

fense effort, appropriate legislation should be enacted. The Senate this year enacted a provision intended to deal with such situation. It was deleted in conference, I presume because it was not thought necessary. I merely wish to make it clear that if events show such a provision to be needed, I shall vigorously support its enactment.

Mr. GEORGE. I am very happy to say to the distinguished Senator, who is a very able member of the Committee on Finance, that I shall be glad to give due consideration to his suggestions. I would not be able to commit myself in advance as to whether or not the Department of Justice or any other agency should be given authority to enter into a compromise agreement. But I shall be very glad to give it due consideration. We have tried to safeguard it as far as possible. The bill in its final form provides that while the President shall appoint the chairman and the other four members of the board, upon recommendation of the services, all of them must come from civil life, and presumably such a board would be disposed to give justice to contractors.

Mr. BUTLER of Nebraska. The mere fact that the committee did have a provision in the bill, which was deleted in the conference, to provide for such cases would indicate the opinion of the chairman of the committee.

Mr. GEORGE. That is correct.

The VICE PRESIDENT. The question is on agreeing to the report.

The report was agreed to.

ADMISSION OF ALIEN SPOUSES AND MINOR CHILDREN OF CITIZEN MEMBERS OF UNITED STATES ARMED FORCES

Mr. McCARRAN. Mr. President, in a moment I shall move that the Senate proceed to the consideration of calendar 109, Senate bill 728. Before doing so, however, I desire particularly to invite the attention of the junior Senator from New Jersey to calendar 64, Senate bill 552. At the time the bill was called on the calendar, I suggested that it go over, thinking perchance that the junior Senator from Georgia [Mr. RUSSELL] had an objection to the bill. I have now been advised by the junior Senator from Georgia that he has no objection to the bill. I therefore ask unanimous consent to return to consideration of calendar 64, the bill (S. 552) to amend Public Law 717 of the Eighty-first Congress to permit the admission of alien spouses and minor children of citizen members of the United States Armed Forces.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. HENDRICKSON. Mr. President, I wish the Record to show that the Republican Calendar Committee has no objection to the bill.

The VICE PRESIDENT. The Chair is advised that there is a similar House bill on the calendar. The Secretary will state the House bill by title.

The LEGISLATIVE CLERK. A bill (H. R. 1090) to extend the period for the admission of alien spouses and minor

children of citizen members of the United States armed services.

Mr. McCARRAN. Mr. President, since S. 552, Calendar No. 64, was reported by the Committee on the Judiciary the companion House bill (H. R. 1090, Calendar No. 113) has passed the House. Both bills are identical in effect and merely extend for 1 year the benefits of Public Law 717 of the Eighty-first Congress which provided for a waiver of the excluding provisions of existing law relating to inadmissibility of aliens into the United States because of race, in behalf of the alien spouses and minor children of United States citizens serving in or having an honorable discharge from the Armed Forces of the United States.

I, therefore, ask unanimous consent that H. R. 1090 be considered and passed in lieu of S. 552 and that S. 552 be indefinitely postponed.

The VICE PRESIDENT. Is there objection to the present consideration of the House bill?

There being no objection, the bill (H. R. 1090) to extend the period for the admission of alien spouses and minor children of citizen members of the United States armed services was considered, ordered to a third reading, read the third time, and passed.

The VICE PRESIDENT. Without objection, Senate bill 552 is indefinitely postponed.

Mr. McCARRAN. Mr. President, I ask unanimous consent that a statement in explanation of the bill which has just been passed be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Public Law 717 of the Eighty-first Congress, which was approved on August 19, 1950, provided for a waiver of the excluding provisions of existing law relating to inadmissibility of aliens into the United States because of race, in behalf of the alien spouses and minor children of United States citizens serving in or having an honorable discharge from the Armed Forces of the United States. Under the provisions of said Public Law 717 the marriage between the alien spouse, and the United States citizen must occur before February 19, 1951, in order to vest the benefits under the law.

Although American occupation of Japan has continued since the enactment of said Public Law 717, the present action in Korea has caused a considerable number of American troops to be shipped out of Japan, thereby preventing them from obtaining the benefits of the Act. It has likewise given rise to an increased number of cases involving Korean spouses and children of members of our Armed Forces.

The committee is informed that there are still a substantial number of spouses and children of United States citizens in our Armed Forces who will be unable to enter the United States unless an extension of time is granted.

The instant bill extends the benefits of Public Law 717 of the Eighty-first Congress for a period of one year from the enactment date of this Act.

CONTROL OF PERSONS ENTERING THE UNITED STATES

Mr. McCARRAN. Mr. President, I move that the Senate proceed to the consideration of Calendar 109, Senate bill 728.

The VICE PRESIDENT. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 728) to amend section 174.1, chapter I, title 8, of the Code of Federal Regulations, relating to control pursuant to the Subversive Activities Control Act of 1950, of persons entering the United States.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. McCARRAN. I promised to yield to the Senator from Minnesota [Mr. HUMPHREY]. I would like to yield to him, but I understand that he has a 12-minute speech.

The VICE PRESIDENT. The Senator cannot yield to another Senator for a speech.

Mr. HUMPHREY. Mr. President, I will seek recognition in my own right.

The VICE PRESIDENT. The Senator from Nevada has the floor.

The question is on agreeing to the motion of the Senator from Nevada [Mr. McCARRAN] that the Senate proceed to the consideration of Senate bill 728, Calendar 109.

Mr. KEM, Mr. WILLIAMS, and Mr. HUMPHREY addressed the Chair.

The VICE PRESIDENT. The motion is debatable. Does the Senator from Nevada wish to retain the floor to discuss the motion?

Mr. McCARRAN. I thought the motion would be agreed to immediately.

The VICE PRESIDENT. It seems that other Senators wish to debate the motion, or to say something.

The Senator from Missouri is recognized.

SHIPMENT OF WAR GOODS TO RUSSIA AND COMMUNIST CHINA BY MARSHALL PLAN COUNTRIES.

Mr. KEM. Mr. President, on April 19, 1950, I presented to the Senate evidence that Marshall plan countries in Western Europe were making large shipments of war goods to the Reds. This evidence has never been controverted. Such shipments are continuing. While we are giving war materials to Marshall plan countries, they in turn are selling the identical material to Russia and Red China.

Last Friday, March 9, 1951, I addressed a letter on this subject to the President of the United States. I should like to read the letter:

MARCH 9, 1951.

The PRESIDENT OF THE UNITED STATES,
The White House,
Washington, D. C.

DEAR MR. PRESIDENT: Mrs. Kem and I have just returned from one of our occasional visits to Walter Reed Hospital, and, as always, we came away with heavy hearts at the sight of boys, some of them from Missouri, whose bodies and lives have been mangled in Korea.

I am writing you in your capacity as chairman of the National Security Council of the United States. As you know, under section 1304 of Public Law 843, Eighty-first Congress, approved September 27, 1950, no economic or financial assistance is to be provided by the United States to any foreign country whose trade with Russia or its satellites, including Red China, is found by the United States National Security Council to be contrary to the security interests of the United States.

Since this law went into effect, it has been repeatedly disclosed that several Marshall plan countries are making large shipments of war-useful items to Russia and to Red China. British trade with Red China has been particularly active through her crown colony, Hong Kong, in such items as rubber and copper.

Department of Commerce officials advised my office this morning that \$329,912.80 worth of machine tools were sold to Russia by Britain during January 1951 alone. Although Marshall plan aid to Britain was suspended on January 1, 1951, goods and services are still reaching Britain through funds previously made available.

Britain is not the only offender. Belgium and France are also selling war-useful goods, including iron and steel, to the Reds. Large quantities of iron and steel have been sent to France and Belgium under the Marshall plan as a gift from the people of the United States.

Western European countries are selling equipment necessary to make A-bombs to Russia and her satellites.

On February 28, 1951, we were told in the press that ECA-aided factories in Italy were speeding products for Russia and that a Soviet economic party was in Genoa attempting to expedite deliveries of electric cranes and thermal power stations from two factories, which have been aided under the Marshall plan to the tune of \$1,625,000.

Despite the seriousness of this situation, a staff member of the National Security Council advised my office this morning that the whole subject is being kept under review. The significant fact is that not once has Marshall plan aid been terminated to any offending country, pursuant to Public Law 843.

For my part, I am against sending so much as a thimble or a hair pin as a gift from the American people to any country which persists in sending war materials to the Reds, now slaughtering our boys in Korea.

I hope you will agree that this is a shocking business, that it is contrary to the security interests of the United States. I plead with you to see that the National Security Council acts on this vital matter without further delay.

With great respect, I am

Sincerely yours,

JAMES P. KEM.

How much longer will we force American boys to face weapons which we ourselves provide through our own allies?

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. KEM. I yield.

Mr. WHERRY. The senior Senator from Missouri has been a pioneer in the battle to stop United States aid to Marshall plan countries which help to strengthen the war potential of Soviet Russia and her satellites. The junior Senator from Nebraska joins the senior Senator from Missouri in these efforts. He has joined in such efforts for years. Yet the flow of materials to Russia, Red China, and the satellite countries overrun by the Communist horde continues.

I should like to ask the distinguished Senator from Missouri whether he believes that again an effort should be made, by appropriate amendment or resolution in the Senate, to see that a halt is called to this outrageous practice of our friends in the free world stabbing us in the back by swelling the war industrial potential of Russia and her captive countries. What is the Senator's judgment on that subject?

Mr. KEM. I will say in reply to the Senator from Nebraska that I think this effort should be continued until some result is obtained.

It was my privilege to cooperate with the Senator from Nebraska at the last session in connection with the so-called Wherry amendment. The amendment was adopted by the Senate, but was so emasculated in conference as to permit this nefarious trade to continue unabated.

Mr. WHERRY. Mr. President, will the Senator yield for a further question?

Mr. KEM. I am glad to yield.

Mr. WHERRY. I ask the distinguished Senator from Missouri, who is so well-informed on this question, whether he intends to prepare a motion or resolution to accomplish the purpose he has in mind. If he intends to do so, I will say to the distinguished Senator that the junior Senator from Nebraska will be glad to join in the effort, and will continue to strive for a law which will make mandatory the cessation of shipments of war materials to countries under Russia's domination.

Mr. KEM. Mr. President, I shall be glad to prepare legislation of that kind, and I shall be glad to have the very able assistance of the distinguished minority leader.

Mr. WHERRY. Mr. President, will the Senator yield for one more question?

Mr. KEM. I yield.

Mr. WHERRY. I believe the senior Senator from Missouri is completely correct when he says that so far all we have received from the administration is their promise to consider, to discuss, and to negotiate. We were promised time and time again by the administration's spokesmen, when amendments were offered to accomplish the very purpose the distinguished Senator from Missouri has now brought to our attention, that the proper committees would consult, and would advise, that they would carry out the intention of some amendments we were able to put into the ECA legislation, which were more or less in the nature of pious hopes. But is it not a fact that all we have had is their promise to consider, to discuss, and to negotiate?

Mr. KEM. The latest I have been able to get from the National Security Council's office is that the matter is under review, whatever that means.

Mr. WHERRY. Mr. President, in my opinion the time has come when we should be through with discussing and negotiating and reviewing. I understand the distinguished Senator from Illinois [Mr. DIRKSEN] is very much interested in a proposed amendment, or some provision that will accomplish the purpose sought. After all the efforts the distinguished Senator from Missouri has made in the Senate, and after all the efforts which have been made by those who join with him, I hope that he will continue to fight to stop the shipment of war materials to Russia and to the satellite countries, especially by the beneficiaries of ECA appropriations, money which comes from the taxpayers of the United States.

Mr. KEM. Mr. President, what worries me most is that many American

The following-named enlisted men of the Navy for temporary appointment in the Navy in the grades and corps indicated:

LIEUTENANTS (JUNIOR GRADE), LINE

Julius W. Gregonis
Stephen J. Stalter

LIEUTENANT (JUNIOR GRADE), SUPPLY CORPS

Ernest H. Crissman

ENSIGN, SUPPLY CORPS

Lawrence A. Kelley, Jr.

CHIEF SHIP'S CLERKS LINE

John I. Carey
George J. Thompson

CONFIRMATIONS

Executive nominations confirmed by the Senate Monday, March 12, 1951:

DEPARTMENT OF STATE

Charles E. Bohlen, of Massachusetts, to be Counselor of the Department of State.

PUBLIC ADVISORY BOARD

Herschel D. Newsom, of Indiana, to be a member of the Public Advisory Board, established under title I of the Foreign Assistance Act of 1948.

DIPLOMATIC AND FOREIGN SERVICE

Ellsworth Bunker, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

Rudolf E. Schoenfeld, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala.

To be Foreign Service officers of class 6, vice consuls of career, and secretaries in the diplomatic service of the United States of America

Richard H. Adams
Nicholas G. Andrews
Marion Augustus Baldwin
Robert J. Ballantyne
William R. Beckett
John W. Black
Roger C. Brewin
William D. Broderick
Robert R. Brungart
Edward W. M. Bryant
North C. Burn
Elwyn F. Chase, Jr.
W. Kennedy Cromwell 3d
Theodore L. Eliot, Jr.
James B. Freeman
Raymond E. González
William P. E. Graves

William P. Harris
Howard Hill
Wharton Drexel Hubbard
Heyward Isham
Alan G. James
Kempton B. Jenkins
Abraham Katz
John C. Mallon
Timothy M. Manley
Robert J. Martens
S. Paul Miller, Jr.
John L. Mills
George C. Moore
Grant E. Mouser 3d
Stephen E. Palmer, Jr.
Arthur W. Purcell
Clifford J. Quinlan
G. Edward Reynolds
William E. Schaufele, Jr.
Robert T. Schneider
Talcott W. Seelye
Roland C. Shaw
Allen C. Siebens
Richard C. Simpkins
Paul A. Smith, Jr.
Heywood H. Stackhouse
Joseph F. Starkey
Jack A. Sulser
Theodore A. Tremblay
Robert T. von der Lieth
Guy A. Wiggins
Orme Wilson, Jr.

House of Representatives

MONDAY, MARCH 12, 1951

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D. D., offered the following prayer:

Almighty God, may this new week upon which we have entered be glorious in the realization of the guidance of Thy divine spirit and in the blessedness of human friendship and in sacrificial service for needy humanity.

Grant that daily we may exercise and manifest a more filial trust in Thee and a more fraternal attitude toward all mankind. We penitently confess that we are frequently so faithless and so lacking in the spirit of brotherhood.

Inspire us with the joyous conviction that we are living and laboring for that which our Master declared to be supremely important when we seek first the kingdom of God and His righteousness.

May our vision of that kingdom never be eclipsed by doubt or despair. We rejoice that when we think of Thy greatness and goodness then we dare to believe that Thy kingdom and all we have ever dreamed of—truth and justice and love—will someday prevail as a blessed reality.

Hear us in the name of the King of Kings and the Lord of Lords. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, March 8, 1951, was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Miller, one of his secretaries, who also informed the House that on March 10, 1951, the President approved and signed a bill of the House of the following title:

H. R. 1001. An act to authorize the construction of modern naval vessels, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Woodruff, its enrolling clerk, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1. An act to provide for the common defense and security of the United States and to permit the more effective utilization of manpower resources of the United States by authorizing universal military training and service, and for other purposes.

RENEGOTIATION ACT OF 1951

Mr. DOUGHTON. Mr. Speaker, I call up the conference report on the bill (H. R. 1724) to provide for the renegotiation of contracts, and for other purposes, and I ask unanimous consent that the statement on the part of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House March 7, 1951.)

Mr. DOUGHTON. Mr. Speaker, the House will recall that this bill, H. R. 1724, was passed by the House on January 23, 1951, by a unanimous vote of the Members present. In the Senate the bill was considered by the Finance Committee, which held hearings thereon. As it passed the Senate, the bill contained 87 amendments, many of which were clerical in nature.

The House and Senate conferees met in conference to compose the differences between the House and Senate versions of the bill. This has been done and we are now bringing up the conference report for action by the House.

Of the 87 amendments made by the Senate, the Senate receded on 19 and the House receded on 68, many of which are purely clerical, and 18 of which were further amended as a result of suggestions by the House conferees. In the main, the amendments made by the Senate and which were accepted by the managers on the part of the House were no more than clarifying amendments to carry out the policy of the House bill. Others, of course, added new provisions to the bill and in those instances they were accepted by the managers on the part of the House where it was felt that such amendments improved the bill.

Some of the principal amendments made by the Senate and accepted by the House conferees are—

First. Adding to the departments whose contracts would be subject to renegotiation the Reconstruction Finance Corporation, the Canal Zone Government, and the Panama Canal Company, and the Housing and Home Finance Agency.

Second. A provision for a carry-over for 1 year of a loss on renegotiable business in the immediately preceding year.

Third. A broadening of the exemption for agricultural commodities and the products of mines, oil or gas wells, and other mineral or natural deposits, and timber, so as to make the exemption identical with that contained in the World War II renegotiation law.

Fourth. A mandatory exemption for contracts and subcontracts with a common carrier for transportation or with public utility for gas, electric energy, communications, or transportation.

Fifth. A mandatory exemption for any contract or subcontract with an organization exempt from taxation under section 101 (6) of the Internal Revenue

Code where the income from such contract or subcontract is unrelated business net income as defined in the Internal Revenue Code.

Sixth. Exemption of contracts which are not clearly connected with and essential to the defense program.

Both versions of the bill provided for a five-man independent board to administer this act. The one provided in the Senate version is substantially identical with that provided for in the House bill and was accepted by the managers on the part of the House.

We feel that the bill under the conference agreement as now composed is still a good bill and one which is fair both to the Government and to contractors. There is need for this legislation, and since it will take some time after its enactment for the administrative body to be selected and organized, I urge the House to adopt the report of the conferees without delay.

Mr. Speaker, I yield to my friend the gentleman from New York [Mr. REED].

Mr. REED of New York. Mr. Speaker, there are several members of the minority of the Committee on Ways and Means who would like to be heard on the conference report.

Mr. DOUGHTON. How much time does the gentleman want?

Mr. REED of New York. Personally, about 10 minutes, but there are others who would like to be heard, and to whom I hope the gentleman will yield to them.

Mr. DOUGHTON. Mr. Speaker, I yield the gentleman from New York [Mr. REED] 10 minutes.

Mr. REED of New York. Mr. Speaker, viewed in its entirety the conference report on H. R. 1724, the Renegotiation Act of 1950, represents a satisfactory compromise between the provisions of the House bill and the amendments made by the other body. I, therefore, join the distinguished chairman of the Ways and Means Committee in urging the adoption of the conference report as an unfortunate, but necessary, part of our emergency legislative program.

Like the House bill the conference report contains a termination date of December 31, 1953, and I hope that by that time there will be no need for this legislation which in effect grants to an administrative agency the power to tax 100 percent of an amount which in its judgment is believed to be excess profits derived from defense contracts.

Because the delegated authority contained in this legislation is both so unrestricted and powerful, and because appeal is limited to the Tax Court, I expressed the hope during the debate on the bill in the House that it would be amended by the other body to limit its application to contracts and subcon-

tracts connected and related to the emergency defense program. I am pleased to report to the House that the conference report contains such a provision in amendment No. 58. This provision in the conference report adds to the contracts and subcontracts which are mandatorily exempted the following: "Contracts not having a direct and immediate connection with national defense." This provision was agreed to by the conferees in lieu of a provision in the Senate bill which would have reinstated the mandatory exemption in the 1943 act relating to competitive-bid contracts and as a substitute for an amendment to the House bill which would have limited the application of the law to contracts "having a direct and immediate connection with the national defense." In other words, this new mandatory exemption contained in the conference agreement was intended by the conferees to achieve substantially the same result as amendments No. 1 and 58 to the House bill. It is the purpose of this provision in the conference agreement to exclude from renegotiation all contracts which the Renegotiation Board determines do not have a "direct" and "immediate" connection with the national defense, such as, for example, a competitive-bid contract executed prior to Korea for the construction of a dam or other peacetime structure or facility, the construction of which was not a part of the national defense program.

Another significant and important improvement from the House bill is the conference provision that contractors and subcontractors are not subject to renegotiation for any year in which they do not have receipts and accruals of \$250,000 or more during the year. The amount in the House bill was only \$100,000, which in view of the rapid and continuing deterioration of the dollar would have imposed too heavy a workload burden on the Board.

The conference report adds to the list of contracts and subcontracts which the House bill exempted from renegotiation any contract or subcontract with a common carrier for transportation, or with a public utility for gas, electric energy, water, communications, or transportation, first, when such contract or subcontract is made at rates which are not in excess of rates filed with, established, approved, or regulated by a Federal, State, or local public regulatory body; or second, when made at rates not in excess of unregulated rates of such a public utility if the regulated rates are substantially as favorable to consumers as are unregulated rates. In the case of transportation by common carrier by water, however, the exemption is applicable only if the furnishing or sale of such transportation is subject to the jurisdiction of the Interstate Commerce Commission under part III of the Interstate Commerce Act or the Federal Maritime Board under the Intercoastal Shipping Act, 1933.

There was no corresponding exemption in the House bill.

The conference reports adds a new partial mandatory exemption in favor

of subcontracts for machinery, tools, or other so-called durable productive equipment which does not become a part of an end product or of an article incorporated therein and which is not acquired by the purchaser for the accounting of the Government. The exemption is limited to equipment of this description which has an average useful life of more than 5 years and it is provided that there shall be subject to renegotiation only that part of the receipts or accruals from subcontracts for such equipment which bears the same ratio to the total of such receipts or accruals as 5 years bears to the average useful life of such equipment. The conference report makes it clear that benefits of this provision do not apply to rents received or accrued under a lease of durable productive equipment and the exemption does not apply in the case of the sale of second-hand durable productive equipment. A list of all the contracts and subcontracts which are mandatorily exempted from renegotiation under the conference report is as follows:

(a) Contracts with States, possessions, territories, and foreign governments.

(b) Those for agricultural commodities in their raw or natural state, or if the commodities are not customarily sold or do not have an established market in their raw or natural state, in the first form or state, beyond the raw or natural state, in which they are customarily sold or have an established market.

(c) Those for the product of mines, oil or gas wells, mineral or natural deposits, or timber, where product has not been processed, refined, or treated beyond the first form or state suitable for industrial use.

(d) Those for transportation by common carrier or with public utilities for gas, electric energy, water, communications or transportation.

(e) Those with nonprofit organizations exempt under section 101 (6) of the Internal Revenue Code, the income from which is not unrelated business net income.

(f) Contracts not having a direct and immediate connection with national defense.

(g) Those for durable productive equipment are given a partial exemption based on ratio of 5 years to average life of equipment.

(h) Subcontracts directly or indirectly under a contract or subcontract to which the Renegotiation Act does not apply by reason of the mandatory exemptions.

In the field of permissive exemptions, the conference report follows the House bill and the Board is given authority to exempt these contracts and subcontracts both individually and by general classes or types.

The conference agreement provides that the Board shall consist of five members to be appointed by the President by and with the advice and consent of the Senate. The Secretaries of the Army, Navy, and Air Force subject to the approval of the Secretary of Defense, and the Administrator of General Services will each recommend a nominee

to the President for his consideration, and the persons recommended to the President must be from civilian life. The salary of the Chairman has been raised to \$17,500 per annum, and the salary of the other members of the Board will be \$15,000 per annum.

The conference report contains a relief provision which was not in the House bill permitting the excess of costs paid or incurred with respect to negotiable contracts and subcontracts in any fiscal year over the amount received or accrued in such fiscal year to be carried over and applied as an item of cost in the next succeeding fiscal year. Such losses will be allowed however to the extent that they are not attributable to gross inefficiency of the contractor or subcontractor and no loss is permitted to be carried over from any fiscal year ending prior to January 1, 1951.

Before concluding, Mr. Speaker, I wish to call the attention of the House to the following other provisions of the conference agreement:

First. Interest: Interest on unpaid renegotiated indebtedness and interest on overcollections will accrue at the rate of 4 percent per annum. The conference report provides that no interest shall accrue after 3 years from the date of filing a petition with the Tax Court where there has not been a final determination by the Tax Court of the matter.

Second. Recognition of efficiency: The House bill, as in the renegotiation law in effect during World War II, listed among the factors to be taken into consideration in determining the existence and amount of excessive profits the "efficiency of contractor subcontractor with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower." The conference agreement provides that instead of merely requiring that efficiency be taken into consideration "favorable renegotiation must be given" to this factor in making such determinations. The other factors contained in the House bill remain unchanged.

Third. Prosecution of claims by former personnel: The House bill provided that certain specified provisions of law shall not prevent any person, by reason of service prior to January 1, 1954, in performance of duties required by the act, from acting as counsel, agent, or attorney for prosecuting claims against the United States after such person is no longer employed in a department or the Board. The conference agreement extends this provision to any person employed in a named or designated department or the Board during the period—or a part thereof—beginning July 1, 1950, and ending December 31, 1953. A similar provision was included in the World War II statute. This provision is desirable in order to secure experienced professional personnel in the performance of duties connected with the defense effort.

(Mr. REED of New York asked and was given permission to revise and extend his remarks.)

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. HARDY].

Mr. HARDY. Mr. Speaker, one of the most controversial parts of this bill is that pertaining to permissive exemptions.

Mr. Speaker, these are days when the power of life and death over the American businessman lies in the hands of comparatively few officials of the Government. With complete legislative sanction there exists the right to select from among many those with whom the Government will negotiate contracts, grant tax exemptions, and so forth, grant loans, and allocate materials vital to a businessman's operations. We might as well recognize that the decisions to be made in these matters are subject—almost an invitation—to improper pressures and abuses.

It has been suggested that the basic deficiency in the law as it existed during World War II was that the permissive exemption authority was redelegated back down to the very people who made the contracts—the procurement officers. I have no doubt that the provisions of the present bill which restricts that authority to the Board are a vast improvement over the old law. And yet, I cannot escape the feeling that so long as the authority exists in some individuals, no matter where they may be located and no matter how meticulous their selection for the work, there is a real need for close scrutiny of their operations.

Information recently coming to my attention is to the effect that during World War II one manufacturing concern realized a profit of approximately 23 percent on sales under an exempted contract which had been in progress for some time. The contractor offered to substantially reduce the price of the article, after improved techniques had reduced the manufacturing cost, and to subject the contract to a price-redetermination clause. At the same time, the Government exempted the contract from renegotiation under the statutory provision permitting such action when the provisions of the contract are otherwise adequate to prevent excessive profits. And yet, as indicated above, that contractor realized profits of approximately 23 percent under that contract. Total sales for the fiscal year in question on this exempted contract were over \$12,000,000.

Also, permit me to quote the following from the Brewster committee report on renegotiation:

Again there are no available statistics on whether or not exempted contracts resulted in permitting contractors to retain unreasonable profits. The committee, however, knows of one contractor who was awarded contracts exempted from renegotiation and who was so successful in improving the efficiency of his operation that he voluntarily refunded over \$18,000,000 which he considered excessive profit.

These two cases are not cited as typical of what happened under the permissive exemption authority during World War II. They do illustrate, first, what can happen and, secondly and more importantly, how carefully the au-

thority to grant such exemptions must be exercised.

It is the regular function of the Government Operations Subcommittee of the Committee on Expenditures, of which I have the honor to be chairman, to make a continuing study of operations in the executive branch with a view to determining their economy and efficiency. In line with that responsibility, it is my intention to request the Renegotiation Board to report to my subcommittee each and every contract which it exempts from renegotiation pursuant to the discretionary authority granted by this bill, together with a full statement of the facts, reasons, and circumstances upon which such exemptions are based.

Mr. MEADER. Mr. Speaker, will the gentleman yield?

Mr. HARDY. I yield to the gentleman from Michigan.

Mr. MEADER. As the chairman of our very fine subcommittee, does the gentleman have in mind that if he is looking over the shoulder of the Renegotiation Board and warns these contractors, there will be less likelihood of special favoritism in granting exemptions from renegotiation of contracts?

Mr. HARDY. I hope that will be the result and I hope also that the Board itself will exercise, and I feel it will exercise, supreme care. The fact that we are going to be observant in my opinion, ought to be an additional stimulus to most careful consideration of a particular contract before an exemption is made.

It will fortify the morale of our entire defense effort if all contractors are confident that they are being treated on the same basis as every other contractor. No one likes to have his profits taken away from him by renegotiation, but he will cooperate patriotically in this policy to prevent profiteering if he can feel that he is not being discriminated against. It was my intention to give notice both to the Renegotiation Board and to defense contractors who might be inclined to seek special favors from that Board, that our committee intends to scrutinize closely and continuously the exercise of this permissive exempting authority. If the committee is convinced that such authority has been abused it will not hesitate to expose such abuses.

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, it was the idea of the members of the Ways and Means Committee not to take any time this morning in discussing this matter, but it is a very important piece of legislation and I am glad that it has been opened for discussion.

I am going to take only a few minutes for I feel this is a very important piece of legislation.

You are going to receive many letters of inquiry with reference to this law which we are about to pass. This is the legislation that renegotiates many millions of dollars' worth of contracts. These contracts are limited to military and national defense work, but since we are in the midst of war preparations the amount and scope of these contracts will run into many millions of dollars and

will cover a wide scope of commercial activities.

I take a good deal of pride in this class of legislation because it originated in the House. It is comparatively new legislation. This kind of legislation when it was first passed was unusual. The name of it "Renegotiation of contracts" immediately excites the interest of any lawyer who has always looked upon a contract properly entered into as an agreement which should be lived up to. To renegotiate a contract is to a lawyer a very unusual proceeding. Therefore to draw a bill that would renegotiate a contract would require special language and would require a special type of administration.

When the first law of this kind was passed its administration was very difficult and in some instances was crude and very unfair. But we have learned our lesson. The contractors are now protected in that the contracts contain provisions which protect the contractor and they also protect the Government. If we had plenty of time to go into every detail of this bill I should like to discuss it fully but I cannot do so. I can only say that I think this bill is a big improvement over the old law. This bill was passed through the House after intelligent and complete debate. We had fine debate on the floor of the House, participated in very actively. The bill went to the Senate. The Senate had ample and exhaustive debate on it and finally amended it in several ways. These amendments improved the bill greatly. The conference committee met and considered the Senate amendments exhaustively. We, the conferees on the part of the House, opposed some of the Senate amendments effectively and we agreed to the amendments.

Mr. Speaker, I think this legislation is now in good shape and I am glad to support it.

This legislation will in effect render unnecessary the matter of excess-profits taxes. It will relieve the contractors greatly in this respect.

Mr. Speaker, this legislation will be of wide interest and the membership will receive many inquiries from constituents with reference to its provisions and to its enforcement.

(Mr. JENKINS asked and was given permission to revise and extend his remarks.)

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa [Mr. MARTIN].

Mr. MARTIN of Iowa. Mr. Speaker, when the proposed Renegotiation Act of 1951, H. R. 1724, came before the House for consideration January 23 I joined in the discussion on the bill to express my approval of the need for effective legal provision for the renegotiation of defense contracts in order to eliminate excessive profits from war production. The bill passed the House on that date by a roll-call vote of 377 to 0.

Even with the unanimous vote on passage, however, during the course of our discussion on the House floor there were some points that some of us thought should be clarified, or modified, and some points that we thought should be

studied more fully than the Committee on Ways and Means had had an opportunity to study and analyze them because of the urgent need to speed the bill on its way to final enactment. I have examined the bill in the form it now comes before us after careful consideration by the Senate Committee on Finance, by the Senate, and by the committee of conference, and I am very pleased to note that the bill in its final form today is greatly improved over the bill we passed January 23, and I commend the Senate Committee on Finance, the Senate, and the committee of conference on their good work.

I was especially concerned about two points when this bill came before the House on January 23.

The first point was the broad application of section 102 describing the contracts subject to renegotiation. That matter has been well taken care of by the committee of conference as you will note by the provisions of subsection (6) of the mandatory exemptions under section 106. You will find the new provision set out on page 4 of the conference report where the committee of conference reports the new provision to be substituted for Senate amendment No. 58. The new provision of subsection (6) makes a mandatory exemption of any contract which the Renegotiation Board determines does not have a direct and immediate connection with the national defense. This mandatory exemption will prevent section 102 being construed to apply to all contracts with the departments and agencies named and, in my opinion, this limitation keeps the entire Renegotiation Act of 1951 in accord with the declaration of policy set out in section 101 of the bill.

The other great point of my concern during the debate on this bill January 23 had to do with the second and third mandatory exemptions under section 106 covering contracts or subcontracts for agricultural commodities and the product of a mine, oil or gas well, or other mineral or natural deposit. The Committee on Ways and Means had made a change from the provisions of the World War II renegotiation law which would have set up a different point in the production and processing of these materials at which the exemption ended. The mining industry had advocated very strongly the retention of the wording of the World War II Act and the proposed change might have created considerable uncertainty and an extremely complex administrative problem which could have resulted in undue and unnecessary hampering of mineral production.

I expressed my views during the discussion before the House on January 23 that if the proposed change in this mandatory exemption would not have an adverse effect on our national defense I would have no objection to its inclusion in this legislation, but I expressed my hope that the Senate Committee on Finance would find it possible to examine this matter more fully. I am very pleased, indeed, to note that Senate amendments Nos. 51, 53, 54, and 55 mod-

ify the language in which these exemptions from renegotiation are set forth so as to express the exemptions in the exact language contained in the World War II renegotiation law.

This action removes uncertainty as to the point for determining exemption and it conforms to the suggestion of the representatives of the mining industry who appeared before the Committee on Ways and Means during the hearings. It removes the apprehension I expressed during the discussion here in the House January 23 regarding the possible adverse impact of the renegotiation law on our national defense preparedness program.

It is impossible for the House to give this legislation a stronger endorsement than was given January 23 when a unanimous roll-call vote was cast for its passage, but I have taken this opportunity to point out two very important improvements in the bill. Again I commend the Senate Committee on Finance, the Senate, and the committee of conference for their good work in improving this legislation.

(Mr. MARTIN of Iowa asked and was given permission to revise and extend his remarks.)

Mr. DOUGHTON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

ADDITIONAL APPROPRIATIONS FOR THE LEGISLATIVE BRANCH

Mr. McGRATH. Mr. Speaker, I ask unanimous consent for the immediate consideration of House Joint Resolution 195, making additional appropriations for the legislative branch for the fiscal year 1951, and for other purposes.

The Clerk read the title of the House joint resolution.

Mr. HORAN. Mr. Speaker, I reserve all points of order on the resolution.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the House joint resolution, as follows:

Resolved, etc., That there are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1951, the following sums:

LEGISLATIVE BRANCH

SENATE

For payment to Mary A. Chapman, widow of Virgil M. Chapman, late a Senator from the State of Kentucky, \$12,500.

Salaries, officers and employees

Office of the Sergeant at Arms and Doorkeeper
For an additional amount, \$16,155.

Contingent expenses of the Senate

For an additional amount for "Expenses of inquiries and investigations," including an additional \$50,000 for the Committee on Appropriations for the objects specified under this heading in Public Law 759, Eighty-first Congress, \$400,000.

For an additional amount for "Miscellaneous items," \$200,000.

For an additional amount for "Biographical Congressional Director," \$5,000.

HOUSE OF REPRESENTATIVES

For payment to Leonor Kretzer Sullivan, widow of John B. Sullivan, late a Representative from the State of Missouri, \$12,500.

Salaries, officers and employees

Committee on Appropriations

For an additional amount for salaries and expenses, studies and examinations, and so forth, \$35,000.

Contingent expenses of the House

Special and select committees: For an additional amount for expenses of special and select committees, \$150,000.

Mr. H. CARL ANDERSEN. Mr. Speaker, I move to strike out the last word.

May I ask the chairman, the gentleman from New York [Mr. McGRATH], if he will explain what is contained in lines 10 and 11 on page 2:

For an additional amount for "Miscellaneous items," \$200,000.

In asking that question I realize the House is presumably not supposed to go into items that affect the other body. Nevertheless, for 12 years it has been more or less a mystery to me why the House cannot be advised as to what we are voting on in these requests. If the gentleman will advise us as to what is in this particular item, I will appreciate that very much.

Mr. McGRATH. This follows the precedents recognizing comity with the other body. The chairman of the full Committee on Appropriations of the Senate has written to the chairman of the House committee, the gentleman from Missouri [Mr. CANNON], and has approved this amount. Following the custom of the past, the House has not gone into the housekeeping items of the other body.

Mr. H. CARL ANDERSEN. Has the gentleman no information whatsoever as to what constitutes this \$200,000? Of course, I realize it is chicken feed nowadays, but I would like a little information upon it.

Mr. McGRATH. I may say to the gentleman that \$200,000 is not chicken feed.

Mr. H. CARL ANDERSEN. I certainly agree with that. That is why I am looking into it. My previous remarks was facetious.

Mr. McGRATH. I recognize that it was. I may say that we have always recognized the other body when the chairman of the full Committee on Appropriations has approved an item. The gentleman recognizes, too, that the practical problem now presented to the House is simply that if this body strikes out this item it will be added by the other body and that will necessitate a conference, at which the item will necessarily be approved. The other body has always recognized the rights of this body to do our own housekeeping job. I believe we in turn should extend them the same courtesy.

Mr. H. CARL ANDERSEN. Will the gentleman inform me as to how much we gave the other body for this item in the regular appropriation bill?

Mr. McGRATH. Seven hundred and eighty-six thousand eight hundred and ninety-five dollars.

Mr. H. CARL ANDERSEN. We have had no accounting whatsoever of that amount requested by the other body, have we? We raised this same point in the full Appropriations Committee last

spring, I may say to the gentleman. I think it is high time that this House find out just what this approximately \$1,000,000 is being expended for during this one fiscal year by the other body. I do not care whether I am treading on certain feet in asking that question.

Mr. McGRATH. The gentleman certainly is not treading on my feet. But I will say to the gentleman that when the hearings were held last year the Senate representatives were most cooperative in explaining any item which was asked of them.

Mr. H. CARL ANDERSEN. Mr. Speaker, I wonder if the chairman of the full committee, the gentleman from Missouri [Mr. CANNON], could enlighten the House as to this particular item. I know that Mr. CANNON is for economy and I think here perhaps is a place that we could instill into the other body a little feeling for that sense of economy which the people have and want at this time.

Mr. CANNON. Mr. Speaker, one of the most important things in maintaining relations between the two bodies is to maintain amicable associations and in order not to interfere with the comity which has existed between the two bodies for time immemorial it has always been understood that each will respect the requests made by the other both for appropriations for their respective housekeeping purposes. The other House, I have no doubt, would consider it an infringement upon their right if we at this time took issue with the amounts which they have approved for their own use. This bill including this item has been unanimously reported by the Senate Committee on Appropriations. It has never been our duty and it is not our duty today to go beyond the decision of that committee.

Mr. H. CARL ANDERSEN. I realize that this bill has been unanimously reported by the other body but here we are dealing with an item which, including this supplementary amount here, represents \$980,000 of the taxpayers' money. And I, as a member of the Committee on Appropriations of the House have not the least idea as to what that \$980,000 is to be expended for or has been expended for. I think we ought to maintain a little comity with the taxpayers of America as well as comity with the other body. I think, Mr. Speaker, it is high time that the House of Representatives look into these items if we are ever going to do anything toward achieving a little economy.

Mr. CANNON. Of course the gentleman has the right to offer an amendment to strike out any portion of the bill, but for the House at this time to strike out this particular item might be considered a violation of the comity which has been observed between the two Houses since the founding of the Government.

Mr. REES of Kansas. Mr. Speaker, will the gentleman yield?

Mr. McGRATH. Mr. Speaker, I move the previous question.

Mr. REES of Kansas. Mr. Speaker—

The SPEAKER. The gentleman from New York has moved the previous question.

The question is on ordering the previous question.

The question was taken; and the Speaker announced that the yeas appeared to have it.

Mr. McGRATH. Mr. Speaker, I demand a division.

The question was taken; and on the division there were—ayes 49, yeas 73.

Mr. McGRATH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. MARTIN of Massachusetts. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The parliamentary situation is this: It appeared that the gentleman from New York [Mr. McGRATH] assumed that no Member desired to offer an amendment and therefore moved the previous question. On that question, very few voted either way. The yeas were the loudest. Then a division was demanded and on a division there were yeas 49 and the yeas were 73.

Mr. MARTIN of Massachusetts. Mr. Speaker, I understand the gentleman from Kansas [Mr. REES] wishes to speak for 5 minutes. Why not withdraw the motion on a previous question and let the gentleman from Kansas speak for 5 minutes?

Mr. McGRATH. There was no objection made on this side to the gentleman from Kansas speaking. I did not see anyone on that side standing when I offered the motion.

Mr. MARTIN of Massachusetts. That is what I understood. I knew he would not object if the gentleman wanted to speak.

Mr. McGRATH. Mr. Speaker, I ask unanimous consent to withdraw the motion for the previous question.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The gentleman from Kansas [Mr. REES].

Mr. REES of Kansas. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REES of Kansas: Page 2, line 10, strike out lines 10 and 11.

Mr. REES of Kansas. Mr. Speaker, we have had considerable discussion with reference to this same problem on other occasions. I realize we are treading on what might be regarded as sacred ground to even question an item that is to be expended by the other body.

However, it is rather strange that this House should approve an item of \$200,000 for any purpose and hesitate to even talk about it. Do not forget this is in addition to \$780,000 that was approved for the other body by this House less than 60 days ago. I do not like to vote for an additional \$200,000, making \$980,000 in all, unless I know what it is for. I think many other Members of the House feel the same way. It may be that it is for a good purpose and is needed right away. In any event, it is brought here as so-called deficiency, and to be acted upon apparently without discussion or explanation.

The chairman of this great Committee on Appropriations has told us many

times on the floor of the House how he stands for economy. He appears to hesitate to tell us what this item of \$200,000 is for. I believe we are entitled to know. It has been said that because of some agreement he describes as comity going on through the years, we should not inquire. I do not believe the other body should hesitate to ask the House about items we are spending for any purpose. They ought to do it. I do not understand why the great chairman of the Appropriations Committee of the House, if he knows, does not tell us about it. What is the expenditure for? That is what I want to know.

Mr. CANNON. Mr. Speaker, will the gentleman yield?

Mr. REES of Kansas. I shall be glad to yield to the distinguished chairman of the Appropriations Committee of the House, who will, I hope, explain why this expenditure is required and what it is for.

Mr. CANNON. The gentleman says that I hesitate to tell him what is in the item. I do not hesitate to tell him what is in the item at all, because it is right before every Member of the House in the bill. It is for miscellaneous expenses. Any Member of the House knows as much about that as any other Member. The Senate Appropriations Committee has reported to us that they want \$200,000 for miscellaneous expenses.

Mr. REES of Kansas. I had hoped the gentleman would be gracious enough to inform the House why we should approve \$200,000 on top of \$780,000. It seems to me that it is only fair we should know what we are voting for. If the chairman of the committee is not able to tell us what is in the \$200,000 item in addition to the \$780,000 expenditure, what may we expect with regard to many other items that will come to the floor of the House for consideration from this great committee?

Mr. H. CARL ANDERSEN. Mr. Speaker, will the gentleman yield?

Mr. REES of Kansas. I yield.

Mr. H. CARL ANDERSEN. The position of the gentleman from Missouri is indicative of the course that he claims we should pursue. Certainly we should not vote for anything concerning which we know nothing.

Mr. REES of Kansas. I agree with the gentleman. If the chairman of the committee is not willing to tell us what is the \$200,000 item, I ask, What are we going to do with a lot of other items?

Mr. HUGH D. SCOTT, JR. Mr. Speaker, will the gentleman yield?

Mr. REES of Kansas. I yield to the distinguished gentleman from Pennsylvania.

Mr. HUGH D. SCOTT, JR. I suggest that this \$200,000 mystery package contains "The Thing" that we hear so much about.

Mr. REES of Kansas. It seems to me that we have got to the place where we should decide whether we are going to spend money under the name of "Miscellaneous items" without explanation, or whether we are going to be informed with regard to such expenditures. If you agree with me and believe we should know, then strike this item out and let

Public Law 9 - 82d Congress
Chapter 15 - 1st Session
H. R. 1724

AN ACT

To provide for the renegotiation of contracts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Renegotiation Act of 1951".

TITLE I—RENEGOTIATION OF CONTRACTS

SEC. 101. DECLARATION OF POLICY.

It is hereby recognized and declared that the Congress has made available for the execution of the national defense program extensive funds, by appropriation and otherwise, for the procurement of property, processes, and services, and the construction of facilities necessary for the national defense; that sound execution of the national defense program requires the elimination of excessive profits from contracts made with the United States, and from related subcontracts, in the course of said program; and that the considered policy of the Congress, in the interests of the national defense and the general welfare of the Nation, requires that such excessive profits be eliminated as provided in this title.

SEC. 102. CONTRACTS SUBJECT TO RENEGOTIATION.

(a) **IN GENERAL.**—The provisions of this title shall be applicable (1) to all contracts with the Departments specifically named in section 103 (a), and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of January 1951, whether such contracts or subcontracts were made on, before, or after such first day, and (2) to all contracts with the Departments designated by the President under section 103 (a), and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of the first month beginning after the date of such designation, whether such contracts or subcontracts were made on, before, or after such first day; but the provisions of this title shall not be applicable to receipts or accruals attributable to performance, under contracts or subcontracts, after December 31, 1953.

(b) **PERFORMANCE PRIOR TO JULY 1, 1950.**—Notwithstanding the provisions of subsection (a), the provisions of this title shall not apply to contracts with the Departments, or related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the 1st day of January 1951, which are attributable to performance, under such contracts or subcontracts, prior to July 1, 1950. This subsection shall have no application in the case of contracts, or related subcontracts, which, but for subsection (c), would be subject to the Renegotiation Act of 1948.

(c) **RENEGOTIATION ACT OF 1948.**—The Renegotiation Act of 1948 shall not be applicable to any contract or subcontract to the extent of the amounts received or accrued by a contractor or subcontractor on or after the 1st day of January 1951, whether such contract or subcontract was made on, before, or after such first day. In the case of a fiscal year beginning in 1950 and ending in 1951, if a contractor or subcontractor has receipts or accruals prior to January 1, 1951, from contracts or subcontracts subject to the Renegotiation Act of 1948, and also has receipts or accruals after December 31, 1950, to which the provisions of this title are applicable, the provisions of this title shall, notwithstanding subsection (a), apply to such receipts and accruals prior to January 1, 1951, if the Board and such contractor

or subcontractor agree to such application of this title; and in the case of such an agreement the provisions of the Renegotiation Act of 1948 shall not apply to any of the receipts or accruals for such fiscal year.

(d) **SUSPENSION OF CERTAIN PROFIT LIMITATIONS.**—Notwithstanding any agreement to the contrary, the profit-limitation provisions of the Act of March 27, 1934 (48 Stat. 503, 505), as amended and supplemented, and of section 505 (b) of the Merchant Marine Act, 1936, as amended and supplemented (46 U. S. C. 1155 (b)), shall not apply, in the case of such Act of March 27, 1934, to any contract or subcontract if any of the receipts or accruals therefrom are subject to this title, and, in the case of the Merchant Marine Act, 1936, to any contract or subcontract entered into after December 31, 1950, if any of the receipts or accruals therefrom are subject to this title.

SEC. 103. DEFINITIONS.

For the purposes of this title—

(a) **DEPARTMENT.**—The term “Department” means the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Commerce, the General Services Administration, the Atomic Energy Commission, the Reconstruction Finance Corporation, the Canal Zone Government, the Panama Canal Company, the Housing and Home Finance Agency, and such other agencies of the Government exercising functions having a direct and immediate connection with the national defense as the President shall designate.

(b) **SECRETARY.**—The term “Secretary” means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Secretary of Commerce, the Administrator of General Services, the Atomic Energy Commission, the Board of Directors of the Reconstruction Finance Corporation, the Governor of the Canal Zone, the president of the Panama Canal Company, the Housing and Home Finance Administrator, and the head of any other agency of the Government which the President shall designate pursuant to subsection (a) of this section.

(c) **BOARD.**—The term “Board” means the Renegotiation Board created by section 107 (a) of this Act.

(d) **RENEGOTIATE AND RENEGOTIATION.**—The terms “renegotiate” and “renegotiation” include a determination by agreement or order under this title of the amount of any excessive profits.

(e) **EXCESSIVE PROFITS.**—The term “excessive profits” means the portion of the profits derived from contracts with the Departments and subcontracts which is determined in accordance with this title to be excessive. In determining excessive profits favorable recognition must be given to the efficiency of the contractor or subcontractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower; and in addition, there shall be taken into consideration the following factors:

- (1) Reasonableness of costs and profits, with particular regard to volume of production, normal earnings, and comparison of war and peacetime products;
- (2) The net worth, with particular regard to the amount and source of public and private capital employed;
- (3) Extent of risk assumed, including the risk incident to reasonable pricing policies;
- (4) Nature and extent of contribution to the defense effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance;

(5) Character of business, including source and nature of materials, complexity of manufacturing technique, character and extent of subcontracting, and rate of turn-over;

(6) Such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted.

(f) **PROFITS DERIVED FROM CONTRACTS WITH THE DEPARTMENTS AND SUBCONTRACTS.**—The term “profits derived from contracts with the Departments and subcontracts” means the excess of the amount received or accrued under such contracts and subcontracts over the costs paid or incurred with respect thereto and determined to be allocable thereto. All items estimated to be allowed as deductions and exclusions under chapter 1 of the Internal Revenue Code (excluding taxes measured by income) shall, to the extent allocable to such contracts and subcontracts, be allowed as items of cost, except that no amount shall be allowed as an item of cost by reason of the application of a carry-over or carry-back. Notwithstanding any other provision of this section, there shall be allowed as an item of cost in any fiscal year, subject to regulations of the Board, an amount equal to the excess, if any, of costs (computed without the application of this sentence) paid or incurred in the preceding fiscal year with respect to receipts or accruals subject to the provisions of this title over the amount of receipts or accruals subject to the provisions of this title which were received or accrued in such preceding fiscal year, but only to the extent that such excess did not result from gross inefficiency of the contractor or subcontractor. For the purposes of the preceding sentence, the term “preceding fiscal year” does not include any fiscal year ending prior to January 1, 1951. Costs shall be determined in accordance with the method of accounting regularly employed by the contractor or subcontractor in keeping his records, but, if no such method of accounting has been employed, or if the method so employed does not, in the opinion of the Board, or, upon redetermination, in the opinion of The Tax Court of the United States, properly reflect such costs, such costs shall be determined in accordance with such method as in the opinion of the Board, or, upon redetermination, in the opinion of The Tax Court of the United States, does properly reflect such costs. In determining the amount of excessive profits to be eliminated, proper adjustment shall be made on account of the taxes measured by income, other than Federal taxes, which are attributable to the portion of the profits which are not excessive.

(g) **SUBCONTRACT.**—The term “subcontract” means—

(1) any purchase order or agreement (including purchase orders or agreements antedating the related prime contract or higher tier subcontract) to perform all or any part of the work, or to make or furnish any materials, required for the performance of any other contract or subcontract, but such term does not include any purchase order or agreement to furnish office supplies;

(2) any contract or arrangement covering the right to use any patented or secret method, formula, or device for the performance of a contract or subcontract; and

(3) any contract or arrangement (other than a contract or arrangement between two contracting parties, one of whom is found by the Board to be a bona fide executive officer, partner, or full-time employee of the other contracting party) under which—

(A) any amount payable is contingent upon the procurement of a contract or contracts with a Department or of a subcontract or subcontracts; or

(B) any amount payable is determined with reference to the amount of a contract or contracts with a Department or of a subcontract or subcontracts; or

(C) any part of the services performed or to be performed consists of the soliciting, attempting to procure, or procuring a contract or contracts with a Department or a subcontract or subcontracts.

Nothing in this subsection shall be construed (i) to affect in any way the validity or construction of provisions in any contract with a Department or any subcontract, heretofore at any time or hereafter made, prohibiting the payment of contingent fees or commissions; or (ii) to restrict in any way the authority of the Board to determine the nature or amount of selling expense under subcontracts as defined in this subsection, as a proper element of the contract price or as a reimbursable item of cost, under a contract with a Department or a subcontract.

(h) **FISCAL YEAR.**—The term “fiscal year” means the taxable year of the contractor or subcontractor under chapter 1 of the Internal Revenue Code, except that where any readjustment of interests occurs in a partnership as defined in section 3797 (a) (2) of such code, the fiscal year of the partnership or partnerships involved in such readjustment shall be determined in accordance with regulations prescribed by the Board.

(i) **RECEIVED OR ACCRUED AND PAID OR INCURRED.**—The terms “received or accrued” and “paid or incurred” shall be construed according to the method of accounting employed by the contractor or subcontractor in keeping his records, but if no such method of accounting has been employed, or if the method so employed does not, in the opinion of the Board, or, upon redetermination, in the opinion of The Tax Court of the United States, properly reflect his receipts or accruals or payments or obligations, such receipts or accruals or such payments or obligations shall be determined in accordance with such method as in the opinion of the Board, or, upon redetermination, in the opinion of The Tax Court of the United States, does properly reflect such receipts or accruals or such payments or obligations.

(j) **PERSON.**—The term “person” shall include an individual, firm, corporation, association, partnership, and any organized group of persons whether or not incorporated.

(k) **MATERIALS.**—The term “materials” shall include raw materials, articles, commodities, parts, assemblies, products, machinery, equipment, supplies, components, technical data, processes, and other personal property.

(l) **AGENCY OF THE GOVERNMENT.**—The term “agency of the Government” means any part of the executive branch of the Government or any independent establishment of the Government or part thereof, including any department (whether or not a Department as defined in subsection (a) of this section), any corporation wholly or partly owned by the United States which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, employee, authority, administration, or other establishment of the Government which is not a part of the legislative or judicial branches.

SEC. 104. RENEGOTIATION CLAUSE IN CONTRACTS.

Subject to section 106 (a) the Secretary of each Department specifically named in section 103 (a) shall insert in each contract made by such Department thirty days or more after the date of the enactment of this Act, and the Secretary of each Department designated by the President under section 103 (a) shall insert in each contract made

by such Department thirty days or more after the date of such designation, a provision under which the contractor agrees—

(1) to the elimination of excessive profits through renegotiation;

(2) that there may be withheld by the United States from amounts otherwise due the contractor, or that he will repay to the United States, if paid to him, any excessive profits;

(3) that he will insert in each subcontract described in section 103 (g) a provision under which the subcontractor agrees—

(A) to the elimination of excessive profits through renegotiation;

(B) that there may be withheld by the contractor for the United States from amounts otherwise due to the subcontractor, or that the subcontractor will repay to the United States, if paid to him, any excessive profits;

(C) that the contractor shall be relieved of all liability to the subcontractor on account of any amount so withheld, or so repaid by the subcontractor to the United States;

(D) that he will insert in each subcontract described in section 103 (g) provisions corresponding to those of subparagraphs (A), (B), and (C), and to those of this subparagraph;

(4) that there may be withheld by the United States from amounts otherwise due the contractor, or that he will repay to the United States, as the Secretary may direct, any amounts which under section 105 (b) (1) (C) the contractor is directed to withhold from a subcontractor and which are actually unpaid at the time the contractor receives such direction.

The obligations assumed by the contractor or subcontractor under paragraph (1) or (3) (A), as the case may be, agreeing to the elimination of excessive profits through renegotiation shall be binding on him only if the contract or subcontract, as the case may be, is subject to this title. A provision inserted in a contract or subcontract, which recites in substance that the contract or subcontract shall be deemed to contain all the provisions required by this section shall be sufficient compliance with this section. Whether or not the provisions specified in this section are inserted in a contract with a Department or subcontract, to which this title is applicable, such contract or subcontract, as the case may be, shall be considered as having been made subject to this title in the same manner and to the same extent as if such provisions had been inserted.

SEC. 105. RENEGOTIATION PROCEEDINGS.

(a) PROCEEDINGS BEFORE THE BOARD.—Renegotiation proceedings shall be commenced by the mailing of notice to that effect, in such form as may be prescribed by regulation, by registered mail to the contractor or subcontractor. The Board shall endeavor to make an agreement with the contractor or subcontractor with respect to the elimination of excessive profits received or accrued, and with respect to such other matters relating thereto as the Board deems advisable. Any such agreement, if made, may, with the consent of the contractor or subcontractor, also include provisions with respect to the elimination of excessive profits likely to be received or accrued. If the Board does not make an agreement with respect to the elimination of excessive profits received or accrued, it shall issue and enter an order determining the amount, if any, of such excessive profits, and forthwith give notice thereof by registered mail to the contractor or subcontractor. In the absence of the filing of a petition with The Tax Court of the United States under the provisions of and within the time limit prescribed in section 108, such order shall be final and

conclusive and shall not be subject to review or redetermination by any court or other agency. The Board shall exercise its powers with respect to the aggregate of the amounts received or accrued during the fiscal year (or such other period as may be fixed by mutual agreement) by a contractor or subcontractor under contracts with the Departments and subcontracts, and not separately with respect to amounts received or accrued under separate contracts with the Departments or subcontracts, except that the Board may exercise such powers separately with respect to amounts received or accrued by the contractor or subcontractor under any one or more separate contracts with the Departments or subcontracts at the request of the contractor or subcontractor. By agreement with any contractor or subcontractor, and pursuant to regulations promulgated by it, the Board may in its discretion conduct renegotiation on a consolidated basis in order properly to reflect excessive profits of two or more related contractors or subcontractors. Renegotiation shall be conducted on a consolidated basis with a parent and its subsidiary corporations which constitute an affiliated group under section 141 (d) of the Internal Revenue Code if all of the corporations included in such affiliated group request renegotiation on such basis and consent to such regulations as the Board shall prescribe with respect to (1) the determination and elimination of excessive profits of such affiliated group, and (2) the determination of the amount of the excessive profits of such affiliated group allocable, for the purposes of section 3806 of the Internal Revenue Code, to each corporation included in such affiliated group. Whenever the Board makes a determination with respect to the amount of excessive profits, and such determination is made by order, it shall, at the request of the contractor or subcontractor, as the case may be, prepare and furnish such contractor or subcontractor with a statement of such determination, of the facts used as a basis therefor, and of its reasons for such determination. Such statement shall not be used in The Tax Court of the United States as proof of the facts or conclusions stated therein.

(b) METHODS OF ELIMINATING EXCESSIVE PROFITS.—

(1) IN GENERAL.—Upon the making of an agreement, or the entry of an order, under subsection (a) of this section by the Board, or the entry of an order under section 108 by The Tax Court of the United States, determining excessive profits, the Board shall forthwith authorize and direct the Secretaries or any of them to eliminate such excessive profits—

(A) by reductions in the amounts otherwise payable to the contractor under contracts with the Departments, or by other revision of their terms;

(B) by withholding from amounts otherwise due to the contractor any amount of such excessive profits;

(C) by directing any person having a contract with any agency of the Government, or any subcontractor thereunder, to withhold for the account of the United States from any amounts otherwise due from such person or such subcontractor to a contractor, or subcontractor, having excessive profits to be eliminated, and every such person or subcontractor receiving such direction shall withhold and pay over to the United States the amounts so required to be withheld;

(D) by recovery from the contractor or subcontractor, or from any person or subcontractor directed under subparagraph (C) to withhold for the account of the United States, through payment, repayment, credit, or suit any amount of such excessive profits realized by the contractor or subcon-

tractor or directed under subparagraph (C) to be withheld for the account of the United States; or

(E) by any combination of these methods, as is deemed desirable.

(2) **INTEREST.**—Interest at the rate of 4 per centum per annum shall accrue and be paid on the amount of such excessive profits from the thirtieth day after the date of the order of the Board or from the date fixed for repayment by the agreement with the contractor or subcontractor to the date of repayment, and on amounts required to be withheld by any person or subcontractor for the account of the United States pursuant to paragraph (1) (C), from the date payment is demanded by the Secretaries or any of them to the date of payment. When The Tax Court of the United States, under section 108, redetermines the amount of excessive profits received or accrued by a contractor or subcontractor, interest at the rate of 4 per centum per annum shall accrue and be paid by such contractor or subcontractor as follows:

(A) When the amount of excessive profits determined by the Tax Court is greater than the amount determined by the Board, interest shall accrue and be paid on the amount determined by the Board from the thirtieth day after the date of the order of the Board to the date of repayment and, in addition thereto, interest shall accrue and be paid on the additional amount determined by the Tax Court from the date of its order determining such excessive profits to the date of repayment.

(B) When the amount of excessive profits determined by the Tax Court is equal to the amount determined by the Board, interest shall accrue and be paid on such amount from the thirtieth day after the date of the order of the Board to the date of repayment.

(C) When the amount of excessive profits determined by the Tax Court is less than the amount determined by the Board, interest shall accrue and be paid on such lesser amount from the thirtieth day after the date of the order of the Board to the date of repayment, except that no interest shall accrue or be payable on such lesser amount if such lesser amount is not in excess of an amount which the contractor or subcontractor tendered in payment prior to the issuance of the order of the Board.

Notwithstanding the provisions of this paragraph, no interest shall accrue after three years from the date of filing a petition with the Tax Court pursuant to section 108 of this title in any case in which there has not been a final determination by the Tax Court with respect to such petition within such three-year period.

(3) **SUITS FOR RECOVERY.**—Actions on behalf of the United States may be brought in the appropriate courts of the United States to recover, (A) from the contractor or subcontractor, any amount of such excessive profits and accrued interest not withheld or eliminated by some other method under this subsection, and (B) from any person or subcontractor who has been directed under paragraph (1) (C) of this subsection to withhold for the account of the United States, the amounts required to be withheld under such paragraph, together with accrued interest thereon.

(4) **SURETIES.**—The surety under a contract or subcontract shall not be liable for the repayment of any excessive profits thereon.

(5) **ASSIGNEES.**—Nothing herein contained shall be construed (A) to authorize any Department or agency of the Government,

except to the extent provided in the Assignment of Claims Act of 1940, as now or hereafter amended, to withhold from any assignee referred to in said Act, any moneys due or to become due, or to recover any moneys paid, to such assignee under any contract with any Department or agency where such moneys have been assigned pursuant to such Act, or (B) to authorize any Department or agency of the Government to direct the withholding pursuant to this Act, or to recover pursuant to this Act, from any bank, trust company or other financing institution (including any Federal lending agency) which is an assignee under any subcontract, any moneys due or to become due or paid to any such assignee under such subcontract.

(6) **INDEMNIFICATION.**—Each person is hereby indemnified by the United States against all claims on account of amounts withheld by such person pursuant to this subsection from a contractor or subcontractor and paid over to the United States.

(7) **TREATMENT OF RECOVERIES.**—All money recovered by way of repayment or suit under this subsection shall be covered into the Treasury as miscellaneous receipts. Upon the withholding of any amount of excessive profits or the crediting of any amount of excessive profits against amounts otherwise due a contractor from appropriations from the Treasury, the Secretary shall certify the amount thereof to the Treasury and the appropriations of his Department shall be reduced by an amount equal to the amount so withheld or credited. The amount of such reductions shall be transferred to the surplus fund of the Treasury.

(8) **CREDIT FOR TAXES PAID.**—In eliminating excessive profits, the Secretary shall allow the contractor or subcontractor credit for Federal income and excess profits taxes as provided in section 3806 of the Internal Revenue Code.

(c) **PERIODS OF LIMITATIONS.**—No proceeding to determine the amount of excessive profits for any fiscal year shall be commenced more than one year after the statement required under subsection (e) (1) of this section is filed with the Board with respect to such year, and, if such proceeding is not commenced prior to the expiration of one year following the date upon which such statement is so filed, all liabilities of the contractor or subcontractor for excessive profits received or accrued during such fiscal year shall thereupon be discharged. If an agreement or order determining the amount of excessive profits is not made within two years following the commencement of the renegotiation proceeding, then upon the expiration of such two years all liabilities of the contractor or subcontractor for excessive profits with respect to which such proceeding was commenced shall thereupon be discharged, except that (1) if an order is made within such two years pursuant to a delegation of authority under subsection (d) of section 107, such two-year limitation shall not apply to review of such order by the Board, and (2) such two-year period may be extended by mutual agreement.

(d) **AGREEMENTS TO ELIMINATE EXCESSIVE PROFITS.**—For the purposes of this title the Board may make final or other agreements with a contractor or subcontractor for the elimination of excessive profits and for the discharge of any liability for excessive profits under this title. Such agreements may contain such terms and conditions as the Board deems advisable. Any such agreement shall be conclusive according to its terms; and, except upon a showing of fraud or malfeasance or a willful misrepresentation of a material fact, (1) such agreement shall not for the purposes of this title be reopened as to the matters agreed upon, and shall not be modified by any officer, employee, or agent of the United States, and (2) such agreement and any deter-

mination made in accordance therewith shall not be annulled, modified, set aside, or disregarded in any suit, action, or proceeding. Notwithstanding any other provision of this title, however, the Board shall have the power, pursuant to regulations promulgated by it, to modify any agreement or order for the purpose of extending the time for payment of sums due under such agreement or order.

(e) **INFORMATION AVAILABLE TO BOARD.—**

(1) **FURNISHING OF FINANCIAL STATEMENTS, ETC.**—Every person who holds contracts or subcontracts, to which the provisions of this title are applicable, shall, in such form and detail as the Board may by regulations prescribe, file with the Board, on or before the first day of the fourth calendar month following the close of his fiscal year, a financial statement setting forth such information as the Board may by regulations prescribe as necessary to carry out this title. In addition to the statement required under the preceding sentence, every such person shall, at such time or times and in such form and detail as the Board may by regulations prescribe, furnish the Board any information, records, or data which are determined by the Board to be necessary to carry out this title. Any person who willfully fails or refuses to furnish any statement, information, records, or data required of him under this subsection, or who knowingly furnishes any such statement, information, records, or data containing information which is false or misleading in any material respect, shall, upon conviction thereof, be punished by a fine of not more than \$10,000 or imprisonment for not more than one year, or both.

(2) **AUDIT OF BOOKS AND RECORDS.**—For the purpose of this title, the Board shall have the right to audit the books and records of any contractor or subcontractor subject to this title. In the interest of economy and the avoidance of duplication of inspection and audit, the services of the Bureau of Internal Revenue shall, upon request of the Board and the approval of the Secretary of the Treasury, be made available to the extent determined by the Secretary of the Treasury for the purpose of making examinations and audits under this title.

(f) **MINIMUM AMOUNTS SUBJECT TO RENEGOTIATION.—**

(1) **IN GENERAL.**—If the aggregate of the amounts received or accrued during a fiscal year (and on or after the applicable effective date specified in section 102 (a)) by a contractor or subcontractor, and all persons under control of or controlling or under common control with the contractor or subcontractor, under contracts with the Departments and subcontracts described in section 103 (g) (1) and (2), is not more than \$250,000, the receipts or accruals from such contracts and subcontracts shall not, for such fiscal year, be renegotiated under this title. If the aggregate of such amounts received or accrued during the fiscal year under such contracts and subcontracts is more than \$250,000, no determination of excessive profits to be eliminated for such year with respect to such contracts and subcontracts shall be in an amount greater than the amount by which such aggregate exceeds \$250,000.

(2) **SUBCONTRACTS DESCRIBED IN SECTION 103 (g) (3).**—If the aggregate of the amounts received or accrued during a fiscal year (and on or after the applicable effective date specified in section 102 (a)) by a subcontractor, and all persons under control of or controlling or under common control with the subcontractor, under subcontracts described in section 103 (g) (3) is not more than \$25,000, the receipts or accruals from such subcontracts shall not, for such fiscal year, be renegotiated under this title. If the aggregate of such amounts received or accrued during the fiscal year

under such subcontracts is more than \$25,000, no determination of excessive profits to be eliminated for such year with respect to such subcontracts shall be in an amount greater than the amount by which such aggregate exceeds \$25,000.

(3) **COMPUTATION.**—In computing the aggregate of the amounts received or accrued during any fiscal year for the purposes of paragraphs (1) and (2) of this subsection, there shall be eliminated all amounts received or accrued by a contractor or subcontractor from all persons under control of or controlling or under common control with the contractor or subcontractor and all amounts received or accrued by each such person from such contractor or subcontractor and from each other such person. If the fiscal year is a fractional part of twelve months, the \$250,000 amount and the \$25,000 amount shall be reduced to the same fractional part thereof for the purposes of paragraphs (1) and (2). In the case of a fiscal year beginning in 1950 and ending in 1951, the \$250,000 amount and the \$25,000 amount shall be reduced to an amount which bears the same ratio to \$250,000 or \$25,000, as the case may be, as the number of days in such fiscal year after December 31, 1950, bears to 365, but this sentence shall have no application if the contractor or subcontractor has made an agreement with the Board pursuant to section 102 (c) for the application of the provisions of this title to receipts or accruals prior to January 1, 1951, during such fiscal year.

SEC. 106. EXEMPTIONS.

(a) **MANDATORY EXEMPTIONS.**—The provisions of this title shall not apply to—

(1) any contract by a Department with any Territory, possession, or State, or any agency or political subdivision thereof, or with any foreign government or any agency thereof; or

(2) any contract or subcontract for an agricultural commodity in its raw or natural state, or if the commodity is not customarily sold or has not an established market in its raw or natural state, in the first form or state, beyond the raw or natural state, in which it is customarily sold or in which it has an established market. The term "agricultural commodity" as used herein shall include but shall not be limited to—

(A) commodities resulting from the cultivation of the soil such as grains of all kinds, fruits, nuts, vegetables, hay, straw, cotton, tobacco, sugarcane, and sugar beets;

(B) natural resins, saps, and gums of trees;

(C) animals, such as cattle, hogs, poultry, and sheep, fish and other marine life, and the produce of live animals, such as wool, eggs, milk and cream; or

(3) any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, which has not been processed, refined, or treated beyond the first form or state suitable for industrial use; or

(4) any contract or subcontract with a common carrier for transportation, or with a public utility for gas, electric energy, water, communications, or transportation, when made in either case at rates not in excess of published rates or charges filed with, fixed, approved, or regulated by a public regulatory body, State, Federal, or local, or at rates not in excess of unregulated rates of such a public utility which are substantially as favorable to users and consumers as are regulated rates. In the case of the furnishing or sale of transportation by common carrier by water, this paragraph shall apply only to such furnishing or sale which is subject to the jurisdiction of the Interstate Commerce Commission under

Part III of the Interstate Commerce Act or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933; or

(5) any contract or subcontract with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code, but only if the income from such contract or subcontract is not includible under section 422 of such code in computing the unrelated business net income of such organization; or

(6) any contract which the Board determines does not have a direct and immediate connection with the national defense. The Board shall prescribe regulations designating those classes and types of contracts which shall be exempt under this paragraph; and the Board shall, in accordance with regulations prescribed by it, exempt any individual contract not falling within any such class or type if it determines that such contract does not have a direct and immediate connection with the national defense. Notwithstanding section 108 of this title, regulations prescribed by the Board under this paragraph, and any determination of the Board that a contract is or is not exempt under this paragraph, shall not be reviewed or redetermined by the Tax Court or by any other court or agency; or

(7) any subcontract directly or indirectly under a contract or subcontract to which this title does not apply by reason of this subsection.

(b) **COST ALLOWANCE.**—In the case of a contractor or subcontractor who produces or acquires the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, and processes, refines, or treats such a product to and beyond the first form or state suitable for industrial use, or who produces or acquires an agricultural product and processes, refines, or treats such a product to and beyond the first form or state in which it is customarily sold or in which it has an established market, the Board shall prescribe such regulations as may be necessary to give such contractor or subcontractor a cost allowance substantially equivalent to the amount which would have been realized by such contractor or subcontractor if he had sold such product at such first form or state. Notwithstanding any other provisions of this title, there shall be excluded from consideration in determining whether or not a contractor or subcontractor has received or accrued excessive profits that portion of the profits, derived from receipts and accruals subject to the provisions of this title, attributable to the increment in value of the excess inventory. For the purposes of this subsection the term "excess inventory" means inventory of products, hereinbefore described in this subsection, acquired by the contractor or subcontractor in the form or at the state in which contracts for such products on hand or on contract would be exempted from this title by subsection (a) (2) or (3) of this section, which is in excess of the inventory reasonably necessary to fulfill existing contracts or orders. That portion of the profits, derived from receipts and accruals subject to the provisions of this title, attributable to the increment in value of the excess inventory, and the method of excluding such portion of profits from consideration in determining whether or not the contractor or subcontractor has received or accrued excessive profits, shall be determined in accordance with regulations prescribed by the Board.

(c) **PARTIAL MANDATORY EXEMPTION FOR DURABLE PRODUCTIVE EQUIPMENT.**—

(1) **IN GENERAL.**—The provisions of this title shall not apply to receipts or accruals (other than rents) from subcontracts for new durable productive equipment, except to that part of such

receipts or accruals which bears the same ratio to the total of such receipts or accruals as five years bears to the average useful life of such equipment as set forth in Bulletin F of the Bureau of Internal Revenue (1942 edition) or, if an average useful life is not so set forth, then as estimated by the Board.

(2) DEFINITIONS.—For the purpose of this subsection—

(A) the term “durable productive equipment” means machinery, tools, or other equipment which does not become a part of an end product acquired by any agency of the Government under a contract with a department, or of an article incorporated therein, and which has an average useful life of more than five years; and

(B) the term “subcontracts for new durable productive equipment” does not include subcontracts where the purchaser of such durable productive equipment has acquired such equipment for the account of the Government, but includes pool orders and similar commitments placed in the first instance by a Department or other agency of the Government when title to the equipment is transferred on delivery thereof or within one year thereafter to a contractor or subcontractor.

(d) PERMISSIVE EXEMPTIONS.—The Board is authorized, in its discretion, to exempt from some or all of the provisions of this title—

(1) any contract or subcontract to be performed outside of the territorial limits of the continental United States or in Alaska;

(2) any contracts or subcontracts under which, in the opinion of the Board, the profits can be determined with reasonable certainty when the contract price is established, such as certain classes of (A) agreements for personal services or for the purchase of real property, perishable goods, or commodities the minimum price for the sale of which has been fixed by a public regulatory body, (B) leases and license agreements, and (C) agreements where the period of performance under such contract or subcontract will not be in excess of thirty days.

(3) any contract or subcontract or performance thereunder during a specified period or periods if, in the opinion of the Board, the provisions of the contract are otherwise adequate to prevent excessive profits;

(4) any contract or subcontract the renegotiation of which would jeopardize secrecy required in the public interest;

(5) any subcontract or group of subcontracts not otherwise exempt from the provisions of this section, if, in the opinion of the Board, it is not administratively feasible in the case of such subcontract or in the case of such group of subcontracts to determine and segregate the profits attributable to such subcontract or group of subcontracts from the profits attributable to activities not subject to renegotiation.

The Board may so exempt contracts and subcontracts both individually and by general classes or types.

SEC. 107. RENEGOTIATION BOARD.

(a) CREATION OF BOARD.—There is hereby created, as an independent establishment in the executive branch of the Government, a Renegotiation Board to be composed of five members to be appointed by the President, by and with the advice and consent of the Senate. The Secretaries of the Army, the Navy, and the Air Force, respectively, subject to the approval of the Secretary of Defense, and the Administrator of General Services shall each recommend to the President, for his consideration, one person from civilian life to serve as a member of the Board. The President shall, at the time of appointment, designate one member to serve as Chairman. The Chairman

shall receive compensation at the rate of \$17,500 per annum, and the other members shall receive compensation at the rate of \$15,000 per annum. No member shall actively engage in any business, vocation, or employment other than as a member of the Board. The Board shall have a seal which shall be judicially noticed.

(b) **PLACES OF MEETINGS AND QUORUM.**—The principal office of the Board shall be in the District of Columbia, but it or any division thereof may meet and exercise its powers at any other place. The Board may establish such number of offices as it deems necessary to expedite the work of the Board. Three members of the Board shall constitute a quorum, and any power, function, or duty of the Board may be exercised or performed by a majority of the members present if the members present constitute at least a quorum.

(c) **PERSONNEL.**—The Board is authorized, subject to the Classification Act of 1949 (but without regard to the civil-service laws and regulations), to employ and fix the compensation of such officers and employees as it deems necessary to assist it in carrying out its duties under this title. The Board may, with the consent of the head of the agency of the Government concerned, utilize the services of any officers or employees of the United States, and reimburse such agency for the services so utilized. Officers or employees whose services are so utilized shall not receive additional compensation for such services, but shall be allowed and paid necessary travel expenses and a per diem in lieu of subsistence in accordance with the Standardized Government Travel Regulations while away from their homes or official station on duties of the Board.

(d) **DELEGATION OF POWERS.**—The Board may delegate in whole or in part any function, power, or duty (other than its power to promulgate regulations and rules and other than its power to grant permissive exemptions under section 106 (d)) to any agency of the Government, including any such agency established by the Board, and may authorize the successive redelegation, within limits specified by it, of any such function, power, or duty to any agency of the Government, including any such agency established by the Board. But no function, power, or duty shall be delegated or redelegated to any person pursuant to this subsection or subsection (f) unless the Board has determined that such person (other than the Secretary of a Department) is responsible directly to the Board or to the person making such delegation or redelegation and is not engaged on behalf of any Department in the making of contracts for the procurement of supplies or services, or in the supervision of such activity; and any delegation or redelegation of any function, power, or duty pursuant to this subsection or subsection (f) shall be revoked by the person making such delegation or redelegation (or by the Board if made by it) if the Board shall at any time thereafter determine that the person (other than the Secretary of a Department) to whom has been delegated or redelegated such function, power, or duty is not responsible directly to the Board or to the person making such delegation or redelegation or is engaged on behalf of any Department in the making of contracts for the procurement of supplies or services, or in the supervision of such activity.

(e) **ORGANIZATION AND OPERATION OF BOARD.**—The Chairman of the Board may from time to time divide the Board into divisions of one or more members, assign the members of the Board thereto, and in case of a division of more than one member, designate the chief thereof. The Board may also, by regulations or otherwise, determine the character of cases to be conducted initially by the Board through an officer or officers of, or utilized by, the Board, the character of cases to be conducted initially by the various agencies of the Government

authorized to exercise powers of the Board pursuant to subsection (d) of this section, the character of cases to be conducted initially by the various divisions of the Board, and the character of cases to be conducted initially by the Board itself. The Board may review any determination in any case not initially conducted by it, on its own motion or, in its discretion, at the request of any contractor or subcontractor aggrieved thereby. Unless the Board upon its own motion initiates a review of such determination within ninety days from the date of such determination, or at the request of the contractor or subcontractor made within ninety days from the date of such determination initiates a review of such determination within ninety days from the date of such request, such determination shall be deemed the determination of the Board. If such determination was made by an order with respect to which notice thereof was given by registered mail pursuant to section 105 (a), the Board shall give notice by registered mail to the contractor or subcontractor of its decision not to review the case. If the Board reviews any determination in any case not initially conducted by it and does not make an agreement with the contractor or subcontractor with respect to the elimination of excessive profits, it shall issue and enter an order under section 105 (a) determining the amount, if any, of excessive profits, and forthwith give notice thereof by registered mail to the contractor or subcontractor. The amount of excessive profits so determined upon review may be less than, equal to, or greater than, that determined by the agency of the Government whose action is so reviewed.

(f) **DELEGATION OF RENEGOTIATION FUNCTIONS TO BOARD.**—The Board is hereby authorized and directed to accept and perform such renegotiation powers, duties, and functions as may be delegated to it under any other law requiring or permitting renegotiation, and the Board is further authorized to redelegate any such power, duty, or function to any agency of the Government and to authorize successive redelegations thereof, within limits specified by the Board. Notwithstanding any other provision of law, the Secretary of Defense is hereby authorized to delegate to the Board, in whole or in part, the powers, functions, and duties conferred upon him by any other renegotiation law.

SEC. 108. REVIEW BY THE TAX COURT.

Any contractor or subcontractor aggrieved by an order of the Board determining the amount of excessive profits received or accrued by such contractor or subcontractor may—

(a) if the case was conducted initially by the Board itself—within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing under section 105 (a) of the notice of such order, or

(b) if the case was not conducted initially by the Board itself—within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing under section 107 (e) of the notice of the decision of the Board not to review the case or the notice of the order of the Board determining the amount of excessive profits,

file a petition with The Tax Court of the United States for a redetermination thereof. Upon such filing such court shall have exclusive jurisdiction, by order, to finally determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor, and such determination shall not be reviewed or redetermined by any court or agency. The court may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the Board. A proceeding before the Tax Court to finally determine the amount, if any, of excessive profits shall not

be treated as a proceeding to review the determination of the Board, but shall be treated as a proceeding de novo. For the purposes of this section the court shall have the same powers and duties, insofar as applicable in respect of the contractor, the subcontractor, the Board, and the Secretary, and in respect of the attendance of witnesses and the production of papers, notice of hearings, hearings before divisions, review by the Tax Court of decisions of divisions, stenographic reporting, and reports of proceedings, as such court has under sections 1110, 1111, 1113, 1114, 1115 (a), 1116, 1117 (a), 1118, 1120, and 1121 of the Internal Revenue Code in the case of a proceeding to redetermine a deficiency. In the case of any witness for the Board, the fees and mileage, and the expenses of taking any deposition shall be paid out of appropriations of the Board available for that purpose, and in the case of any other witnesses shall be paid, subject to rules prescribed by the court, by the party at whose instance the witness appears or the deposition is taken. The filing of a petition under this section shall operate to stay the execution of the order of the Board under subsection (b) of section 105 if within ten days after the filing of the petition the petitioner files with the Tax Court a good and sufficient bond, approved by such court, in such amount as may be fixed by the court. Any amount collected by the United States under an order of the Board in excess of the amount found to be due under a determination of excessive profits by the Tax Court shall be refunded to the contractor or subcontractor with interest thereon at the rate of 4 per centum per annum from the date of collection by the United States to the date of refund.

SEC. 109. RULES AND REGULATIONS.

The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out the provisions of this title.

SEC. 110. COMPLIANCE WITH REGULATIONS, ETC.

No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from his compliance with a rule, regulation, or order issued pursuant to this title, notwithstanding that any such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid.

SEC. 111. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

The functions exercised under this title shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of section 3 thereof.

SEC. 112. APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes of this title. Funds made available for the purposes of this title may be allocated or transferred for any of the purposes of this title, with the approval of the Bureau of the Budget to any agency of the Government designated to assist in carrying out this title. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

SEC. 113. PROSECUTION OF CLAIMS AGAINST UNITED STATES BY FORMER PERSONNEL.

Nothing in title 18, United States Code, sections 281 and 283, or in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99) shall be deemed to prevent any person by reason of service in a Department or the Board during the period (or a part thereof) beginning July 1, 1950, and ending December 31, 1953, from acting as counsel, agent, or attorney for prosecuting any claim against the United States: *Provided*, That such person shall not prosecute any claim against the

United States (1) involving any subject matter directly connected with which such person was so employed, or (2) during the period such person is engaged in employment in a Department or the Board.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. FUNCTIONS UNDER WORLD WAR II RENEGOTIATION ACT.

(a) **ABOLITION OF WAR CONTRACTS PRICE ADJUSTMENT BOARD.**—The War Contracts Price Adjustment Board, created by the Renegotiation Act, is hereby abolished.

(b) **TRANSFER OF FUNCTIONS IN GENERAL.**—All powers, functions, and duties conferred upon the War Contracts Price Adjustment Board by the Renegotiation Act and not otherwise specifically dealt with in this section are transferred to the Renegotiation Board.

(c) **AMENDMENT OF THE RENEGOTIATION ACT.**—Subsection (a) (4) (D) of the Renegotiation Act is amended by inserting at the end thereof the following: "A net renegotiation rebate shall not be repaid unless a claim therefor has been filed with the Board on or before the date of its abolition, or unless a claim shall have been filed with the Administrator of General Services (i) on or before June 30, 1951, or (ii) within ninety days after the making of an agreement or the entry of an order under subsection (c) (1) determining the amount of excessive profits, whichever is later. A claim shall be deemed to have been filed when received by the Board or the Administrator, whether or not accompanied by a statement of the Commissioner of Internal Revenue showing the amortization deduction allowed for the renegotiated year upon the recomputation made pursuant to section 124 (d) of the Internal Revenue Code."

(d) **TRANSFER OF CERTAIN FUNCTIONS.**—All powers, functions, and duties conferred upon the War Contracts Price Adjustment Board by subsection (a) (4) (D) of the Renegotiation Act, subject to the amendment thereof by subsection (c) of this section, are hereby transferred to the Administrator of General Services.

(e) **FUNCTIONS AND RECORDS.**—Each Secretary of a Department is authorized and directed to eliminate the excessive profits determined under all existing renegotiation agreements or orders by the methods enumerated in subsection (c) (2) of the Renegotiation Act in respect of all renegotiations conducted by his Department pursuant to delegations from the War Contracts Price Adjustment Board. The several Departments shall retain custody of the renegotiation case files covering renegotiations thus conducted for such time as the Secretary deems necessary for the purposes of this section, and thereafter they shall be made available to the Renegotiation Board for appropriate disposition. The renegotiation records of the War Contracts Price Adjustment Board shall become records of the Renegotiation Board on the effective date of this section.

(f) **REFUNDS.**—All refunds under subsection (a) (4) (D) of the Renegotiation Act (relating to the recomputation of the amortization deduction), all refunds under the last sentence of subsection (i) (3) of such Act (relating to excess inventories), and all amounts finally adjudged or determined to have been erroneously collected by the United States pursuant to a determination of excessive profits, with interest thereon in the last mentioned case at a rate not to exceed 4 per centum per annum as may be determined by the Administrator of General Services or his duly authorized representative computed to the date of certification to the Treasury Department for payment, shall be certified by the Administrator of General Services or his duly authorized representative to the Treasury Department for payment from such appropriations as may be available therefor: *Provided,*

That such refunds shall be based solely on the certificate of the Administrator of General Services or his duly authorized representative.

• (g) **EXISTING POLICIES, PROCEDURES, ETC., TO REMAIN IN EFFECT.**—All policies, procedures, directives, and delegations of authority prescribed or issued (1) by the War Contracts Price Adjustment Board, or (2) by any Secretary or other duly authorized officer of the Government, under the authority of the Renegotiation Act, in effect upon the effective date of this section and not inconsistent herewith, shall remain in full force and effect unless and until superseded, or except as they may be amended, under the authority of this section or any other appropriate authority. All functions, powers, and responsibilities transferred by this section shall be accompanied by the authority to issue appropriate regulations and procedures, or to modify existing procedures, in respect of such powers, functions, and responsibilities.

(h) **SAVINGS PROVISION.**—This section shall not be construed (1) to prohibit disbursements authorized by the War Contracts Price Adjustment Board and certified pursuant to its authority prior to the effective date of this section, (2) to affect the validity or finality of any agreement or order made or issued pursuant to law by the War Contracts Price Adjustment Board or pursuant to delegations of authority from it, or (3) to prejudice or to abate any action taken or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause; but any court having on its docket a case to which the War Contracts Price Adjustment Board is a party, on motion or supplemental petition filed at any time within twelve months after the effective date of this section, showing a necessity for the survival of such suit, action, or other proceeding to obtain a determination of the questions involved, may allow the same to be maintained by or against the United States.

(i) **RENEGOTIATION ACT NOT REPEALED.**—Except as by this Act specifically amended or modified, all provisions of the Renegotiation Act shall remain in full force and effect.

(j) **DEFINITIONS.**—The terms which are defined in the Renegotiation Act shall, when used in this section, have the same meaning as when used in the Renegotiation Act, except that where a renegotiation function has been transferred by or pursuant to law the terms "Secretary" or "Secretaries" and "Department" or "Departments" shall be understood to refer to the successors in function to those officers or offices specifically named in the Renegotiation Act.

(k) **EFFECTIVE DATE OF SECTION.**—This section shall take effect sixty days after the date of the enactment of this Act.

SEC. 202. PERIOD OF LIMITATIONS FOR RENEGOTIATION ACT OF 1948.

No proceeding under the Renegotiation Act of 1948 to determine the amount of excessive profits for any fiscal year shall be commenced more than one year after the mandatory statement required by the regulations issued pursuant to such Act is filed with respect to such year, or more than six months after the date of the enactment of this title, whichever is the later, and if such proceeding is not so commenced (in the manner provided by the regulations prescribed pursuant to such Act), all liabilities of the contractor or subcontractor under such Act for excessive profits received or accrued during such fiscal year shall thereupon be discharged. If an agreement or order determining the amount of excessive profits under such Act is not made within two years following the commencement of the renegotiation proceeding, then upon the expiration of such two years all liabilities of the contractor or subcontractor for excessive profits with respect to which such proceeding was commenced shall thereupon be discharged, except that (1) such two-year period may be extended by mutual agreement, and (2) if within such two years such an order

is duly issued pursuant to such Act, such two-year limitation shall not apply to the review of such order by any renegotiation board duly authorized to undertake such review.

SEC. 203. AMENDMENT OF SECTION 3806 OF THE INTERNAL REVENUE CODE.

Section 3806 (a) (1) of the Internal Revenue Code is hereby amended by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

“(A) The term ‘renegotiation’ includes any transaction which is a renegotiation within the meaning of the Federal renegotiation act applicable to such transaction, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

“(B) The term ‘excessive profits’ includes any amount which constitutes excessive profits within the meaning assigned to such term by the applicable Federal renegotiation act, any part of the contract price of a contract with the United States or any agency thereof, any part of the subcontract price of a subcontract under such a contract, and any profits derived from one or more such contracts or subcontracts.

“(C) The term ‘subcontract’ includes any purchase order or agreement which is a subcontract within the meaning assigned to such term by the applicable Federal renegotiation act.

“(D) The term ‘Federal renegotiation act’ includes section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended or supplemented, the Renegotiation Act of 1948, as amended or supplemented, and the Renegotiation Act of 1951, as amended or supplemented.”

SEC. 204. SEPARABILITY PROVISION.

If any provision of this Act or the application of any provision to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of its provisions to other persons and circumstances shall not be affected thereby.

Approved March 23, 1951.

